

***In the Senate of the United States,***

*May 2, 1996.*

*Resolved*, That the bill from the House of Representatives (H.R. 2202) entitled “An Act to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; REFERENCES IN ACT.***

2       (a) *SHORT TITLE*.—*This Act may be cited as the “Im-*  
3 *migration Control and Financial Responsibility Act of*  
4 *1996”.*

5       (b) *REFERENCES IN ACT*.—*Except as otherwise spe-*  
6 *cifically provided in this Act, whenever in this Act an*

1 *amendment or repeal is expressed as an amendment to or*  
 2 *repeal of a provision, the reference shall be deemed to be*  
 3 *made to the Immigration and Nationality Act (8 U.S.C.*  
 4 *1101 et seq.).*

5 **SEC. 2. TABLE OF CONTENTS.**

6 *The table of contents for this Act is as follows:*

*Sec. 1. Short title; references in Act.*

*Sec. 2. Table of contents.*

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- Sec. 319. Exclusion of certain aliens from family unity program.*
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1                   **TITLE I—IMMIGRATION**  
2                               **CONTROL**  
3           **Subtitle A—Law Enforcement**  
4                   **PART 1—ADDITIONAL ENFORCEMENT**  
5                               **PERSONNEL AND FACILITIES**

6   **SEC. 101. BORDER PATROL AGENTS.**

7           (a) *BORDER PATROL AGENTS.*—*The Attorney General,*  
8   *in fiscal year 1996 shall increase by no less than 700, and*  
9   *in each of fiscal years 1997, 1998, 1999, and 2000, shall*  
10   *increase by no less than 1,000, the number of positions for*  
11   *full-time, active-duty Border Patrol agents within the Im-*  
12   *migration and Naturalization Service above the number of*  
13   *such positions for which funds were allotted for the preced-*  
14   *ing fiscal year.*

15          (b) *BORDER PATROL SUPPORT PERSONNEL.*—*The At-*  
16   *torney General, in each of fiscal years 1996, 1997, 1998,*  
17   *1999, and 2000, may increase by not more than 300 the*  
18   *number of positions for personnel in support of Border Pa-*  
19   *trol agents above the number of such positions for which*  
20   *funds were allotted for the preceding fiscal year.*

21   **SEC. 102. INVESTIGATORS.**

22          (a) *AUTHORIZATION.*—*There are authorized to be ap-*  
23   *propriated to the Department of Justice such funds as may*  
24   *be necessary to enable the Commissioner of the Immigration*  
25   *and Naturalization Service to increase the number of inves-*

1 *tigators and support personnel to investigate potential vio-*  
2 *lations of sections 274 and 274A of the Immigration and*  
3 *Nationality Act (8 U.S.C. 1324 and 1324a) by a number*  
4 *equivalent to 300 full-time active-duty investigators in each*  
5 *of fiscal years 1996, 1997, and 1998.*

6 (b) *LIMITATION ON OVERTIME.*—None of the funds  
7 made available to the Immigration and Naturalization  
8 Service under this section shall be available for administra-  
9 tive expenses to pay any employee overtime pay in an  
10 amount in excess of \$25,000 for any fiscal year.

11 **SEC. 103. LAND BORDER INSPECTORS.**

12 *In order to eliminate undue delay in the thorough in-*  
13 *spection of persons and vehicles lawfully attempting to*  
14 *enter the United States, the Attorney General and the Sec-*  
15 *retary of the Treasury shall increase, by approximately*  
16 *equal numbers in each of fiscal years 1996 and 1997, the*  
17 *number of full-time land border inspectors assigned to ac-*  
18 *tive duty by the Immigration and Naturalization Service*  
19 *and the United States Customs Service to a level adequate*  
20 *to assure full staffing during peak crossing hours of all bor-*  
21 *der crossing lanes currently in use, under construction, or*  
22 *whose construction has been authorized by Congress, except*  
23 *such low-use lanes as the Attorney General may designate.*



1 **SEC. 104. INVESTIGATORS OF VISA OVERSTAYERS.**

2 *There are authorized to be appropriated to the Depart-*  
 3 *ment of Justice such funds as may be necessary to enable*  
 4 *the Commissioner of the Immigration and Naturalization*  
 5 *Service to increase the number of investigators and support*  
 6 *personnel to investigate visa overstayers by a number equiv-*  
 7 *alent to 300 full-time active-duty investigators in fiscal*  
 8 *year 1996.*

9 **SEC. 105. INCREASED PERSONNEL LEVELS FOR THE LABOR**  
 10 **DEPARTMENT.**

11 *(a) INVESTIGATORS.—The Secretary of Labor, in con-*  
 12 *sultation with the Attorney General, is authorized to hire*  
 13 *in the Wage and Hour Division of the Department of Labor*  
 14 *for fiscal years 1996 and 1997 not more than 350 investiga-*  
 15 *tors and staff to enforce existing legal sanctions against em-*  
 16 *ployers who violate current Federal wage and hour laws*  
 17 *except that not more than 150 of the number of investigators*  
 18 *authorized in this subparagraph shall be designated for the*  
 19 *purpose of carrying out the responsibilities of the Secretary*  
 20 *of Labor to conduct investigations, pursuant to a complaint*  
 21 *or based on receipt of credible material information, where*  
 22 *there is reasonable cause to believe that an employer has*  
 23 *made a misrepresentation of a material fact on a labor cer-*  
 24 *tification application under section 212(a)(5) of the Immi-*  
 25 *gration and Nationality Act or has failed to comply with*  
 26 *the terms and conditions of such an application.*

1       (b) *ASSIGNMENT OF ADDITIONAL PERSONNEL.*—Indi-  
 2       viduals employed to fill the additional positions described  
 3       in subsection (a) shall be assigned to investigate violations  
 4       of wage and hour laws in areas where the Attorney General  
 5       has notified the Secretary of Labor that there are high con-  
 6       centrations of aliens present in the United States in viola-  
 7       tion of law.

8       (c) *PREFERENCE FOR BILINGUAL WAGE AND HOUR*  
 9       *INSPECTORS.*—In hiring new wage and hour inspectors pur-  
 10      suant to this section, the Secretary of Labor shall give pri-  
 11      ority to the employment of multilingual candidates who are  
 12      proficient in both English and such other language or lan-  
 13      guages as may be spoken in the region in which such inspec-  
 14      tors are likely to be deployed.

15      **SEC. 106. INCREASE IN INS DETENTION FACILITIES.**

16      Subject to the availability of appropriations, the Attor-  
 17      ney General shall provide for an increase in the detention  
 18      facilities of the Immigration and Naturalization Service to  
 19      at least 9,000 beds before the end of fiscal year 1997.

20      **SEC. 107. HIRING AND TRAINING STANDARDS.**

21      (a) *REVIEW OF HIRING STANDARDS.*—Within 60 days  
 22      of the enactment of this title, the Attorney General shall  
 23      review all prescreening and hiring standards to be utilized  
 24      by the Immigration and Naturalization Service to increase  
 25      personnel pursuant to this title and, where necessary, revise

1 *those standards to ensure that they are consistent with rel-*  
2 *evant standards of professionalism.*

3       (b) *CERTIFICATION.*—*At the conclusion of each of the*  
4 *fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney*  
5 *General shall certify in writing to the Congress that all per-*  
6 *sonnel hired pursuant to this title for the previous fiscal*  
7 *year were hired pursuant to the appropriate standards.*

8       (c) *REVIEW OF TRAINING STANDARDS.*—(1) *Within*  
9 *180 days of the date of the enactment of this Act, the Attor-*  
10 *ney General shall review the sufficiency of all training*  
11 *standards to be utilized by the Immigration and Natu-*  
12 *ralization Service in training all personnel hired pursuant*  
13 *to this title.*

14       (2)(A) *The Attorney General shall submit a report to*  
15 *the Congress on the results of the review conducted under*  
16 *paragraph (1), including—*

17               (i) *a description of the status of ongoing efforts*  
18               *to update and improve training throughout the Immi-*  
19               *gration and Naturalization Service, and*

20               (ii) *a statement of a timeframe for the comple-*  
21               *tion of those efforts.*

22       (B) *In addition, the report shall disclose those areas*  
23 *of training that the Attorney General determines require*  
24 *additional or ongoing review in the future.*

1 **SEC. 108. CONSTRUCTION OF PHYSICAL BARRIERS, DE-**  
2 **PLOYMENT OF TECHNOLOGY AND IMPROVE-**  
3 **MENTS TO ROADS IN THE BORDER AREA**  
4 **NEAR SAN DIEGO, CALIFORNIA.**

5 *There are authorized to be appropriated funds of*  
6 *\$12,000,000 for the construction, expansion, improvement*  
7 *or deployment of triple-fencing in addition to that currently*  
8 *under construction, where such triple-fencing is determined*  
9 *by the Immigration and Naturalization Service (INS) to*  
10 *be safe and effective, and in addition, bollard style concrete*  
11 *columns, all weather roads, low light television systems,*  
12 *lighting, sensors and other technologies along the inter-*  
13 *national land border between the United States and Mexico*  
14 *south of San Diego, California, for the purpose of detecting*  
15 *and deterring unlawful entry across the border. Amounts*  
16 *appropriated under this section are authorized to remain*  
17 *available until expended. The INS, while constructing the*  
18 *additional fencing, shall incorporate the necessary safety*  
19 *features into the design of the fence system to insure the*  
20 *well-being of Border Patrol agents deployed within or in*  
21 *near proximity to these additional barriers.*

22 **SEC. 109. PRESERVE LAW ENFORCEMENT FUNCTIONS AND**  
23 **CAPABILITIES IN INTERIOR STATES.**

24 *The Immigration and Naturalization Service shall,*  
25 *when deploying Border Patrol personnel from interior sta-*  
26 *tions, coordinate with and act in conjunction with State*

1 *and local law enforcement agencies to ensure that such rede-*  
 2 *ployment does not degrade or compromise the law enforce-*  
 3 *ment capabilities and functions currently performed at in-*  
 4 *terior Border Patrol stations.*

5 ***PART 2—VERIFICATION OF ELIGIBILITY TO WORK***  
 6 ***AND TO RECEIVE PUBLIC ASSISTANCE***

7 ***Subpart A—Development of New Verification System***

8 ***SEC. 111. ESTABLISHMENT OF NEW SYSTEM.***

9 *(a) IN GENERAL.—(1) Not later than three years after*  
 10 *the date of enactment of this Act or, within one year after*  
 11 *the end of the last renewed or additional demonstration*  
 12 *project (if any) conducted pursuant to the exception in sec-*  
 13 *tion 112(a)(4), whichever is later, the President shall—*

14 *(A) develop and recommend to the Congress a*  
 15 *plan for the establishment of a data system or alter-*  
 16 *native system (in this part referred to as the “sys-*  
 17 *tem”), subject to subsections (b) and (c), to verify eli-*  
 18 *gibility for employment in the United States, and im-*  
 19 *migration status in the United States for purposes of*  
 20 *eligibility for benefits under public assistance pro-*  
 21 *grams (as defined in section 201(f)(3) or government*  
 22 *benefits described in section 201(f)(4));*

23 *(B) submit to the Congress a report setting*  
 24 *forth—*

25 *(i) a description of such recommended plan;*

1           (ii) data on and analyses of the alternatives  
2           considered in developing the plan described in  
3           subparagraph (A), including analyses of data  
4           from the demonstration projects conducted pur-  
5           suant to section 112; and

6           (iii) data on and analysis of the system de-  
7           scribed in subparagraph (A), including estimates  
8           of—

9                   (I) the proposed use of the system, on  
10                  an industry-sector by industry-sector basis;

11                  (II) the public assistance programs  
12                  and government benefits for which use of the  
13                  system is cost-effective and otherwise appro-  
14                  priate;

15                  (III) the cost of the system;

16                  (IV) the financial and administrative  
17                  cost to employers;

18                  (V) the reduction of undocumented  
19                  workers in the United States labor force re-  
20                  sulting from the system;

21                  (VI) any unlawful discrimination  
22                  caused by or facilitated by use of the  
23                  system;

24                  (VII) any privacy intrusions caused by  
25                  misuse or abuse of system;

1                   (VIII) the accuracy rate of the system;  
2                   and  
3                   (IX) the overall costs and benefits that  
4                   would result from implementation of the  
5                   system.

6           (2) The plan described in paragraph (1) shall take ef-  
7   fect on the date of enactment of a bill or joint resolution  
8   approving the plan.

9           (b) *OBJECTIVES.*—The plan described in subsection  
10 (a)(1) shall have the following objectives:

11                   (1) To substantially reduce illegal immigration  
12                   and unauthorized employment of aliens.

13                   (2) To increase employer compliance, especially  
14                   in industry sectors known to employ undocumented  
15                   workers, with laws governing employment of aliens.

16                   (3) To protect individuals from national origin  
17                   or citizenship-based unlawful discrimination and  
18                   from loss of privacy caused by use, misuse, or abuse  
19                   of personal information.

20                   (4) To minimize the burden on business of ver-  
21                   ification of eligibility for employment in the United  
22                   States, including the cost of the system to employers.

23                   (5) To ensure that those who are ineligible for  
24                   public assistance or other government benefits are de-

1        *nied or terminated, and that those eligible for public*  
2        *assistance or other government benefits shall—*

3                *(A) be provided a reasonable opportunity to*  
4                *submit evidence indicating a satisfactory immi-*  
5                *gration status; and*

6                *(B) not have eligibility for public assistance*  
7                *or other government benefits denied, reduced, ter-*  
8                *minated, or unreasonably delayed on the basis of*  
9                *the individual's immigration status until such a*  
10               *reasonable opportunity has been provided.*

11        *(c) SYSTEM REQUIREMENTS.—(1) A verification sys-*  
12        *tem may not be implemented under this section unless the*  
13        *system meets the following requirements:*

14               *(A) The system must be capable of reliably deter-*  
15               *mining with respect to an individual whether—*

16                        *(i) the person with the identity claimed by*  
17                        *the individual is authorized to work in the Unit-*  
18                        *ed States or has the immigration status being*  
19                        *claimed; and*

20                        *(ii) the individual is claiming the identity*  
21                        *of another person.*

22                *(B) Any document required by the system must*  
23                *be presented to or examined by either an employer or*  
24                *an administrator of public assistance or other govern-*  
25                *ment benefits, as the case may be, and—*



1           (i) must be in a form that is resistant to  
2           counterfeiting and to tampering; and

3           (ii) must not be required by any Govern-  
4           ment entity or agency as a national identifica-  
5           tion card or to be carried or presented except—

6                   (I) to verify eligibility for employment  
7                   in the United States or immigration status  
8                   in the United States for purposes of eligi-  
9                   bility for benefits under public assistance  
10                  programs (as defined in section 201(f)(3) or  
11                  government benefits described in section  
12                  201(f)(4));

13                  (II) to enforce the Immigration and  
14                  Nationality Act or sections 911, 1001, 1028,  
15                  1542, 1546, or 1621 of title 18, United  
16                  States Code; or

17                  (III) if the document was designed for  
18                  another purposes (such as a license to drive  
19                  a motor vehicle, a certificate of birth, or a  
20                  social security account number card issued  
21                  by the Administration), as required under  
22                  law for such other purpose.

23           (C) The system must not be used for law enforce-  
24           ment purposes other than the purposes described in  
25           subparagraph (B).

1           (D) *The system must ensure that information is*  
2           *complete, accurate, verifiable, and timely. Corrections*  
3           *or additions to the system records of an individual*  
4           *provided by the individual, the Administration, or the*  
5           *Service, or other relevant Federal agency, must be*  
6           *checked for accuracy, processed, and entered into the*  
7           *system within 10 business days after the agency's ac-*  
8           *quisition of the correction or additional information.*

9           (E)(i) *Any personal information obtained in*  
10          *connection with a demonstration project under section*  
11          *112 must not be made available to Government agen-*  
12          *cies, employers, or other persons except to the extent*  
13          *necessary—*

14               (I) *to verify, by an individual who is au-*  
15               *thorized to conduct the employment verification*  
16               *process, that an employee is not an unauthorized*  
17               *alien (as defined in section 274A(h)(3) of the*  
18               *Immigration and Nationality Act (8 U.S.C.*  
19               *1324a(h)(3));*

20               (II) *to take other action required to carry*  
21               *out section 112;*

22               (III) *to enforce the Immigration and Na-*  
23               *tionality Act or section 911, 1001, 1028, 1542,*  
24               *1546, or 1621 of title 18, United States Code; or*

1           (IV) to verify the individual's immigration  
2           status for purposes of determining eligibility for  
3           Federal benefits under public assistance pro-  
4           grams (defined in section 201(f)(3) or govern-  
5           ment benefits described in section 201(f)(4)).

6           (ii) In order to ensure the integrity, confidential-  
7           ity, and security of system information, the system  
8           and those who use the system must maintain appro-  
9           priate administrative, technical, and physical safe-  
10          guards, such as—

11               (I) safeguards to prevent unauthorized dis-  
12               closure of personal information, including pass-  
13               words, cryptography, and other technologies;

14               (II) audit trails to monitor system use; or

15               (III) procedures giving an individual the  
16               right to request records containing personal in-  
17               formation about the individual held by agencies  
18               and used in the system, for the purpose of exam-  
19               ination, copying, correction, or amendment, and  
20               a method that ensures notice to individuals of  
21               these procedures.

22           (F) A verification that a person is eligible for  
23           employment in the United States may not be withheld  
24           or revoked under the system for any reasons other

1        *than a determination pursuant to section 274A of the*  
2        *Immigration and Nationality Act.*

3            (G) *The system must be capable of accurately*  
4        *verifying electronically within 5 business days, wheth-*  
5        *er a person has the required immigration status in*  
6        *the United States and is legally authorized for em-*  
7        *ployment in the United States in a substantial per-*  
8        *centage of cases (with the objective of not less than 99*  
9        *percent).*

10          (H) *There must be reasonable safeguards against*  
11        *the system's resulting in unlawful discriminatory*  
12        *practices based on national origin or citizenship sta-*  
13        *tus, including—*

14                (i) *the selective or unauthorized use of the*  
15                *system to verify eligibility;*

16                (ii) *the use of the system prior to an offer*  
17                *of employment;*

18                (iii) *the exclusion of certain individuals*  
19                *from consideration for employment as a result of*  
20                *a perceived likelihood that additional verifica-*  
21                *tion will be required, beyond what is required for*  
22                *most job applicants; or*

23                (iv) *denial reduction, termination, or un-*  
24                *reasonable delay of public assistance to an indi-*

1            *vidual as a result of the perceived likelihood that*  
 2            *such additional verification will be required.*

3            (2) *As used in this subsection, the term “business day”*  
 4            *means any day other than Saturday, Sunday, or any day*  
 5            *on which the appropriate Federal agency is closed.*

6            (d) *REMEDIES AND PENALTIES FOR UNLAWFUL DIS-*  
 7            *CLOSURE.—*

8            (1) *CIVIL REMEDIES.—*

9            (A) *RIGHT OF INFORMATIONAL PRIVACY.—*

10            *The Congress declares that any person who pro-*  
 11            *vides to an employer the information required by*  
 12            *this section or section 274A of the Immigration*  
 13            *and Nationality Act (8 U.S.C. 1324a) has a pri-*  
 14            *vacancy expectation that the information will only*  
 15            *be used for compliance with this Act or other ap-*  
 16            *plicable Federal, State, or local law.*

17            (B) *CIVIL ACTIONS.—A employer, or other*  
 18            *person or entity, who knowingly and willfully*  
 19            *discloses the information that an employee is re-*  
 20            *quired to provide by this section or section 274A*  
 21            *of the Immigration and Nationality Act (8*  
 22            *U.S.C. 1324a) for any purpose not authorized by*  
 23            *this Act or other applicable Federal, State, or*  
 24            *local law shall be liable to the employee for ac-*  
 25            *tual damages. An action may be brought in any*

1       *Federal, State, or local court having jurisdiction*  
2       *over the matter.*

3       (2) *CRIMINAL PENALTIES.—Any employer, or*  
4       *other person or entity, who willfully and knowingly*  
5       *obtains, uses, or discloses information required pursu-*  
6       *ant to this section or section 274A of the Immigration*  
7       *and Nationality Act (8 U.S.C. 1324a) for any pur-*  
8       *pose not authorized by this Act or other applicable*  
9       *Federal, State, or local law shall be found guilty of*  
10      *a misdemeanor and fined not more than \$5,000.*

11      (3) *PRIVACY ACT.—*

12           (A) *IN GENERAL.—Any person who is a*  
13       *United States citizen, United States national,*  
14       *lawful permanent resident, or other employment-*  
15       *authorized alien, and who is subject to verifica-*  
16       *tion of work authorization or lawful presence in*  
17       *the United States for purposes of benefits eligi-*  
18       *bility under this section or section 112, shall be*  
19       *considered an individual under section 552(a)(2)*  
20       *of title 5, United States Code, with respect to*  
21       *records covered by this section.*

22           (B) *DEFINITION.—For purposes of this*  
23       *paragraph, the term “record” means an item,*  
24       *collection, or grouping of information about an*  
25       *individual which—*

1                   (i) is created, maintained, or used by  
2                   a Federal agency for the purpose of deter-  
3                   mining—

4                   (I) the individual's authorization  
5                   to work; or

6                   (II) immigration status in the  
7                   United States for purposes of eligi-  
8                   bility to receive Federal, State or local  
9                   benefits in the United States; and

10                  (ii) contains the individuals's name or  
11                  identifying number, symbol, or any other  
12                  identifier assigned to the individual.

13           (e) *EMPLOYER SAFEGUARDS.*—An employer shall not  
14           be liable for any penalty under section 274A of the Immi-  
15           gration and Nationality Act for employing an unauthorized  
16           alien, if—

17                  (1) the alien appeared throughout the term of  
18                  employment to be *prima facie* eligible for the employ-  
19                  ment under the requirements of section 274A(b) of  
20                  such Act;

21                  (2) the employer followed all procedures required  
22                  in the system; and

23                  (3)(A) the alien was verified under the system as  
24                  eligible for the employment; or

1           (B) the employer discharged the alien within a  
2           reasonable period after receiving notice that the final  
3           verification procedure had failed to verify that the  
4           alien was eligible for the employment.

5           (f) *RESTRICTION ON USE OF DOCUMENTS.*—If the At-  
6           torney General determines that any document described in  
7           section 274A(b)(1) of the Immigration and Nationality Act  
8           as establishing employment authorization or identity does  
9           not reliably establish such authorization or identity or, to  
10          an unacceptable degree, is being used fraudulently or is  
11          being requested for purposes not authorized by this Act, the  
12          Attorney General may, by regulation, prohibit or place con-  
13          ditions on the use of the document for purposes of the system  
14          or the verification system established in section 274A(b) of  
15          the Immigration and Nationality Act.

16          (g) *PROTECTION FROM LIABILITY FOR ACTIONS*  
17          *TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE*  
18          *VERIFICATION SYSTEM.*—No person shall be civilly or  
19          criminally liable under section 274A of the Immigration  
20          and Nationality Act for any action adverse to an individ-  
21          ual if such action was taken in good faith reliance on infor-  
22          mation relating to such individual provided through the  
23          system (including any demonstration project conducted  
24          under section 112).



1       (h) *STATUTORY CONSTRUCTION.*—*The provisions of*  
 2 *this section supersede the provisions of section 274A of the*  
 3 *Immigration and Nationality Act to the extent of any in-*  
 4 *consistency therewith.*

5   **SEC. 112. DEMONSTRATION PROJECTS.**

6       (a) *AUTHORITY.*—

7           (1) *IN GENERAL.*—(A)(i) *Subject to clause (ii)*  
 8 *and (iv), the President, acting through the Attorney*  
 9 *General, shall begin conducting several local or re-*  
 10 *gional projects, and a project in the legislative branch*  
 11 *of the Federal Government, to demonstrate the fea-*  
 12 *sibility of alternative systems for verifying eligibility*  
 13 *for employment in the United States, and immigra-*  
 14 *tion status in the United States for purposes of eligi-*  
 15 *bility for benefits under public assistance programs*  
 16 *(as defined in section 201(f)(3) and government bene-*  
 17 *fits described in section 201(f)(4)).*

18           (ii) *Each project under this section shall be con-*  
 19 *sistent with the objectives of section 111(b) and this*  
 20 *section and shall be conducted in accordance with an*  
 21 *agreement entered into with the State, locality, em-*  
 22 *ployer, other entity, or the legislative branch of the*  
 23 *Federal Government, as the case may be.*

24           (iii) *In determining which State(s), localities,*  
 25 *employers, or other entities shall be designated for*

1        *such projects, the Attorney General shall take into ac-*  
 2        *count the estimated number of excludable aliens and*  
 3        *deportable aliens in each State or locality.*

4            *(iv) At a minimum, at least one project of the*  
 5        *kind described in paragraph (2)(E), at least one*  
 6        *project of the kind described in paragraph (2)(F), and*  
 7        *at least one project of the kind described in paragraph*  
 8        *(2)(G), shall be conducted.*

9            *(B) For purposes of this paragraph, the term*  
 10        *“legislative branch of the Federal Government” in-*  
 11        *cludes all offices described in section 101(9) of the*  
 12        *Congressional Accountability Act of 1995 (2 U.S.C.*  
 13        *1301(9)) and all agencies of the legislative branch of*  
 14        *Government.*

15            *(2) DESCRIPTION OF PROJECTS.—Demonstration*  
 16        *projects conducted under this subsection may include,*  
 17        *but are not limited to—*

18            *(A) a system which allows employers to ver-*  
 19        *ify the eligibility for employment of new employ-*  
 20        *ees using Administration records and, if nec-*  
 21        *essary, to conduct a cross-check using Service*  
 22        *records;*

23            *(B) a simulated linkage of the electronic*  
 24        *records of the Service and the Administration to*  
 25        *test the technical feasibility of establishing a*

1        *linkage between the actual electronic records of*  
2        *the Service and the Administration;*

3                *(C) improvements and additions to the elec-*  
4        *tronic records of the Service and the Administra-*  
5        *tion for the purpose of using such records for ver-*  
6        *ification of employment eligibility;*

7                *(D) a system which allows employers to ver-*  
8        *ify the continued eligibility for employment of*  
9        *employees with temporary work authorization;*

10               *(E) a system that requires employers to ver-*  
11        *ify the validity of employee social security ac-*  
12        *count numbers through a telephone call, and to*  
13        *verify employee identity through a United States*  
14        *passport, a State driver's license or identifica-*  
15        *tion document, or a document issued by the*  
16        *Service for purposes of this clause;*

17               *(F) a system which is based on State-issued*  
18        *driver's licenses and identification cards that in-*  
19        *clude a machine readable social security account*  
20        *number and are resistant to tampering and*  
21        *counterfeiting; and*

22               *(G) a system that requires employers to ver-*  
23        *ify with the Service the immigration status of*  
24        *every employee except one who has attested that*  
25        *he or she is a United States citizen or national.*

1           (3) *COMMENCEMENT DATE.*—*The first dem-*  
2           *onstration project under this section shall commence*  
3           *not later than six months after the date of the enact-*  
4           *ment of this Act.*

5           (4) *TERMINATION DATE.*—*The authority of para-*  
6           *graph (1) shall cease to be effective four years after*  
7           *the date of enactment of this Act, except that, if the*  
8           *President determines that any one or more of the*  
9           *projects conducted pursuant to paragraph (2) should*  
10          *be renewed, or one or more additional projects should*  
11          *be conducted before a plan is recommended under sec-*  
12          *tion 111(a)(1)(A), the President may conduct such*  
13          *project or projects for up to an additional three-year*  
14          *period, without regard to section 274A(d)(4)(A) of the*  
15          *Immigration and Nationality Act.*

16          (b) *OBJECTIVES.*—*The objectives of the demonstration*  
17          *projects conducted under this section are—*

18               (1) *to assist the Attorney General in measuring*  
19               *the benefits and costs of systems for verifying eligi-*  
20               *bility for employment in the United States, and im-*  
21               *migration status in the United States for purposes of*  
22               *eligibility for benefits under public assistance pro-*  
23               *grams defined in section 201(f)(3) and for government*  
24               *benefits described in section 201(f)(4);*

1           (2) *to assist the Service and the Administration*  
2           *in determining the accuracy of Service and Adminis-*  
3           *tration data that may be used in such systems; and*

4           (3) *to provide the Attorney General with infor-*  
5           *mation necessary to make determinations regarding*  
6           *the likely effects of the tested systems on employers,*  
7           *employees, and other individuals, including informa-*  
8           *tion on—*

9                   (A) *losses of employment to individuals as*  
10                  *a result of inaccurate information in the system;*

11                  (B) *unlawful discrimination;*

12                  (C) *privacy violations;*

13                  (D) *cost to individual employers, including*  
14                  *the cost per employee and the total cost as a per-*  
15                  *centage of the employers payroll; and*

16                  (E) *timeliness of initial and final verifica-*  
17                  *tion determinations.*

18           (c) *CONGRESSIONAL CONSULTATION.—(1) Not later*  
19           *than 12 months after the date of the enactment of this Act,*  
20           *and annually thereafter, the Attorney General or the Attor-*  
21           *ney General's representatives shall consult with the Com-*  
22           *mittees on the Judiciary of the House of Representatives*  
23           *and the Senate regarding the demonstration projects being*  
24           *conducted under this section.*

1       (2) *The Attorney General or her representative, in ful-*  
2 *filling the obligations described in paragraph (1), shall sub-*  
3 *mit to the Congress the estimated cost to employers of each*  
4 *demonstration project, including the system’s indirect and*  
5 *administrative costs to employers.*

6       (d) *IMPLEMENTATION.—In carrying out the projects*  
7 *described in subsection (a), the Attorney General shall—*

8           (1) *support and, to the extent possible, facilitate*  
9 *the efforts of Federal and State government agencies*  
10 *in developing—*

11               (A) *tamper- and counterfeit-resistant docu-*  
12 *ments that may be used in a new verification*  
13 *system, including drivers’ licenses or similar*  
14 *documents issued by a State for the purpose of*  
15 *identification, the social security account num-*  
16 *ber card issued by the Administration, and cer-*  
17 *tificates of birth in the United States or estab-*  
18 *lishing United States nationality at birth; and*

19               (B) *recordkeeping systems that would re-*  
20 *duce the fraudulent obtaining of such documents,*  
21 *including a nationwide system to match birth*  
22 *and death records;*

23       (2) *require appropriate notice to prospective em-*  
24 *ployees concerning employers’ participation in a*  
25 *demonstration project, which notice shall contain in-*

1        *formation on filing complaints regarding misuse of*  
 2        *information or unlawful discrimination by employers*  
 3        *participating in the demonstration; and*

4                *(3) require employers to establish procedures de-*  
 5        *veloped by the Attorney General—*

6                        *(A) to safeguard all personal information*  
 7        *from unauthorized disclosure and to condition*  
 8        *release of such information to any person or en-*  
 9        *tity upon the person's or entity's agreement to*  
 10       *safeguard such information; and*

11                       *(B) to provide notice to all new employees*  
 12       *and applicants for employment of the right to re-*  
 13       *quest an agency to review, correct, or amend the*  
 14       *employee's or applicant's record and the steps to*  
 15       *follow to make such a request.*

16        *(e) REPORT OF ATTORNEY GENERAL.—Not later than*  
 17       *60 days before the expiration of the authority for subsection*  
 18       *(a)(1), the Attorney General shall submit to the Congress*  
 19       *a report containing an evaluation of each of the demonstra-*  
 20       *tion projects conducted under this section, including the*  
 21       *findings made by the Comptroller General under section*  
 22       *113.*

23        *(f) SYSTEM REQUIREMENTS.—*

24                       *(1) IN GENERAL.—Demonstration projects con-*  
 25       *ducted under this section shall substantially meet the*

1        *criteria in section 111(c)(1), except that with respect*  
2        *to the criteria in subparagraphs (D) and (G) of sec-*  
3        *tion 111(c)(1), such projects are required only to be*  
4        *likely to substantially meet the criteria, as determined*  
5        *by the Attorney General.*

6                (2) *SUPERSEDING EFFECT.—(A) If the Attorney*  
7        *General determines that any demonstration project*  
8        *conducted under this section substantially meets the*  
9        *criteria in section 111(c)(1), other than the criteria in*  
10       *subparagraphs (D) and (G) of that section, and meets*  
11       *the criteria in such subparagraphs (D) and (G) to a*  
12       *sufficient degree, the requirements for participants in*  
13       *such project shall apply during the remaining period*  
14       *of its operation in lieu of the procedures required*  
15       *under section 274A(b) of the Immigration and Na-*  
16       *tionality Act. Section 274B of such Act shall remain*  
17       *fully applicable to the participants in the project.*

18                (B) *If the Attorney General makes the deter-*  
19        *mination referred to in subparagraph (A), the Attor-*  
20        *ney General may require other, or all, employers in*  
21        *the geographical area covered by such project to par-*  
22        *ticipate in it during the remaining period of its oper-*  
23        *ation.*



1           (C) *The Attorney General may not require any*  
 2           *employer to participate in such a project, except as*  
 3           *provided in subparagraph (B).*

4           (g) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
 5           *authorized to be appropriated such sums as may be nec-*  
 6           *essary to carry out this section.*

7           (h) *STATUTORY CONSTRUCTION.—The provisions of*  
 8           *this section supersede the provisions of section 274A of the*  
 9           *Immigration and Nationality Act to the extent of any in-*  
 10          *consistency therewith.*

11          (i) *DEFINITION OF REGIONAL PROJECT.—For pur-*  
 12          *poses of this section, the term “regional project” means a*  
 13          *project conducted in a geographical area which includes*  
 14          *more than a single locality but which is smaller than an*  
 15          *entire State.*

16          **SEC. 113. COMPTROLLER GENERAL MONITORING AND**  
 17                  **REPORTS.**

18          (a) *IN GENERAL.—The Comptroller General of the*  
 19          *United States shall track, monitor, and evaluate the compli-*  
 20          *ance of each demonstration project with the objectives of sec-*  
 21          *tions 111 and 112, and shall verify the results of the dem-*  
 22          *onstration projects.*

23          (b) *RESPONSIBILITIES.—*

24                  (1) *COLLECTION OF INFORMATION.—The Comp-*  
 25          *troller General of the United States shall collect and*

1        *consider information on each requirement described*  
2        *in section 111(a)(1)(C).*

3                (2) *TRACKING AND RECORDING OF PRACTICES.—*

4        *The Comptroller General shall track and record un-*  
5        *lawful discriminatory employment practices, if any,*  
6        *resulting from the use or disclosure of information*  
7        *pursuant to a demonstration project or implementa-*  
8        *tion of the system, using such methods as—*

9                        (A) *the collection and analysis of data;*

10                      (B) *the use of hiring audits; and*

11                      (C) *use of computer audits, including the*  
12        *comparison of such audits with hiring records.*

13                (3) *MAINTENANCE OF DATA.—The Comptroller*  
14        *General shall also maintain data on unlawful dis-*  
15        *criminatory practices occurring among a representa-*  
16        *tive sample of employers who are not participants in*  
17        *any project under this section to serve as a baseline*  
18        *for comparison with similar data obtained from em-*  
19        *ployers who are participants in projects under this*  
20        *section.*

21                (c) *REPORTS.—*

22                      (1) *DEMONSTRATION PROJECTS.—Beginning 12*  
23        *months after the date of the enactment of this Act,*  
24        *and annually thereafter, the Comptroller General of*  
25        *the United States shall submit a report to the Com-*

1        *mittees on the Judiciary of the House of Representa-*  
 2        *tives and the Senate setting forth evaluations of—*

3                *(A) the extent to which each demonstration*  
 4                *project is meeting each of the requirements of sec-*  
 5                *tion 111(c); and*

6                *(B) the Comptroller General’s preliminary*  
 7                *findings made under this section.*

8                *(2) VERIFICATION SYSTEM.—Not later than 60*  
 9                *days after the submission to the Congress of the plan*  
 10               *under section 111(a)(2), the Comptroller General of*  
 11               *the United States shall submit a report to the Con-*  
 12               *gress setting forth an evaluation of—*

13               *(A) the extent to which the proposed system,*  
 14               *if any, meets each of the requirements of section*  
 15               *111(c); and*

16               *(B) the Comptroller General’s findings*  
 17               *made under this section.*

18        **SEC. 114. GENERAL NONPREEMPTION OF EXISTING RIGHTS**

19                **AND REMEDIES.**

20        *Nothing in this subpart may be construed to deny, im-*  
 21        *pair, or otherwise adversely affect any right or remedy*  
 22        *available under Federal, State, or local law to any person*  
 23        *on or after the date of the enactment of this Act except to*  
 24        *the extent the right or remedy is inconsistent with any pro-*  
 25        *vision of this part.*

1 **SEC. 115. DEFINITIONS.**

2 *For purposes of this subpart—*

3 (1) *ADMINISTRATION.*— *The term “Administra-*  
 4 *tion” means the Social Security Administration.*

5 (2) *EMPLOYMENT AUTHORIZED ALIEN.*—*The*  
 6 *term “employment authorized alien” means an alien*  
 7 *who has been provided with an “employment author-*  
 8 *ized” endorsement by the Attorney General or other*  
 9 *appropriate work permit in accordance with the Im-*  
 10 *migration and Nationality Act.*

11 (3) *SERVICE.*—*The term “Service” means the*  
 12 *Immigration and Naturalization Service.*

13 ***Subpart B—Strengthening Existing Verification***  
 14 ***Procedures***

15 **SEC. 116. CHANGES IN LIST OF ACCEPTABLE EMPLOYMENT-**  
 16 **VERIFICATION DOCUMENTS.**

17 (a) *AUTHORITY TO REQUIRE SOCIAL SECURITY AC-*  
 18 *COUNT NUMBERS.*—*Section 274A (8 U.S.C. 1324a) is*  
 19 *amended by adding at the end of subsection (b)(2) the fol-*  
 20 *lowing new sentence: “The Attorney General is authorized*  
 21 *to require an individual to provide on the form described*  
 22 *in paragraph (1)(A) the individual’s social security account*  
 23 *number for purposes of complying with this section.”.*

24 (b) *CHANGES IN ACCEPTABLE DOCUMENTATION FOR*  
 25 *EMPLOYMENT AUTHORIZATION AND IDENTITY.*—

(1) *REDUCTION IN NUMBER OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—*

*(A) in subparagraph (B)—*

*(i) by striking clauses (ii), (iii), and (iv);*

*(ii) by redesignating clause (v) as clause (ii);*

*(iii) in clause (i), by adding at the end “or”;*

*(iv) in clause (ii) (as redesignated), by amending the text preceding subclause (I) to read as follows:*

*“(ii) resident alien card, alien registration card, or other document designated by regulation by the Attorney General, if the document—”; and*

*(v) in clause (ii) (as redesignated)—*

*(I) by striking “and” at the end of subclause (I);*

*(II) by striking the period at the end of subclause (II) and inserting “, and”; and*

*(III) by adding at the end the following new subclause:*

1                   “(III) contains appropriate secu-  
2                   rity features.”; and

3                   (B) in subparagraph (C)—

4                   (i) by inserting “or” after the “semi-  
5                   colon” at the end of clause (i);

6                   (ii) by striking clause (ii); and

7                   (iii) by redesignating clause (iii) as  
8                   clause (ii).

9                   (2) *AUTHORITY TO PROHIBIT USE OF CERTAIN*  
10                  *DOCUMENTS.*—If the Attorney General finds, by regu-  
11                  lation, that any document described in section  
12                  274A(b)(1) of the Immigration and Nationality Act  
13                  (8 U.S.C. 1324a(b)(1)) as establishing employment  
14                  authorization or identity does not reliably establish  
15                  such authorization or identity or is being used fraud-  
16                  ulently to an unacceptable degree, the Attorney Gen-  
17                  eral may prohibit or place conditions on its use for  
18                  purposes of the verification system established in sec-  
19                  tion 274A(b) of the Immigration and Nationality Act  
20                  under section 111 of this Act.

21                  (c) *EFFECTIVE DATE.*—The amendments made by sub-  
22                  sections (a) and (b)(1) shall apply with respect to hiring  
23                  (or recruiting or referring) occurring on or after such date  
24                  as the Attorney General shall designate (but not later than  
25                  180 days after the date of the enactment of this Act).

1 **SEC. 117. TREATMENT OF CERTAIN DOCUMENTARY PRAC-**  
 2 **TICES AS UNFAIR IMMIGRATION-RELATED**  
 3 **EMPLOYMENT PRACTICES**

4 *Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is*  
 5 *amended—*

6 *(1) by striking “For purposes of paragraph (1),*  
 7 *a” and inserting “A”; and*

8 *(2) by striking “relating to the hiring of individ-*  
 9 *uals” and inserting the following: “if made for the*  
 10 *purpose or with the intent of discriminating against*  
 11 *an individual in violation of paragraph (1)”.*

12 **SEC. 118. IMPROVEMENTS IN IDENTIFICATION-RELATED**  
 13 **DOCUMENTS.**

14 *(a) BIRTH CERTIFICATES.—*

15 *(1) LIMITATION ON ACCEPTANCE.—(A) No Fed-*  
 16 *eral agency, including but not limited to the Social*  
 17 *Security Administration and the Department of*  
 18 *State, and no State agency that issues driver’s li-*  
 19 *censes or identification documents, may accept for*  
 20 *any official purpose a copy of a birth certificate, as*  
 21 *defined in paragraph (5), unless it is issued by a*  
 22 *State or local authorized custodian of record and it*  
 23 *conforms to standards described in subparagraph (B).*

24 *(B) The standards described in this subpara-*  
 25 *graph are those set forth in regulations promulgated*  
 26 *by the Federal agency designated by the President,*

1       *after consultation with such other Federal agencies as*  
2       *the President shall designate and with State vital sta-*  
3       *tistics offices, and shall—*

4               *(i) include but not be limited to—*

5                       *(I) certification by the agency issuing*  
6                       *the birth certificate, and*

7                       *(II) use of safety paper, the seal of the*  
8                       *issuing agency, and other features designed*  
9                       *to limit tampering, counterfeiting, and*  
10                      *photocopying, or otherwise duplicating, for*  
11                      *fraudulent purposes,*

12               *(ii) not require a single design to which the*  
13               *official birth certificate copies issued by each*  
14               *State must conform; and*

15               *(iii) accommodate the differences between*  
16               *the States in the manner and form in which*  
17               *birth records are stored and in how birth certifi-*  
18               *cate copies are produced from such records.*

19               (2) *LIMITATION ON ISSUANCE.—(A) If one or*  
20               *more of the conditions described in subparagraph (B)*  
21               *is present, no State or local government agency may*  
22               *issue an official copy of a birth certificate pertaining*  
23               *to an individual unless the copy prominently notes*  
24               *that such individual is deceased.*



1           (B) *The conditions described in this subpara-*  
2 *graph include—*

3               (i) *the presence on the original birth certifi-*  
4 *cate of a notation that the individual is de-*  
5 *ceased, or*

6               (ii) *actual knowledge by the issuing agency*  
7 *that the individual is deceased obtained through*  
8 *information provided by the Social Security Ad-*  
9 *ministration, by an interstate system of birth-*  
10 *death matching, or otherwise.*

11           (3) *GRANTS TO STATES.—(A)(i) The Secretary of*  
12 *Health and Human Services, in consultation with*  
13 *other agencies designated by the President, shall es-*  
14 *tablish a fund, administered through the National*  
15 *Center for Health Statistics, to provide grants to the*  
16 *States to encourage them to develop the capability to*  
17 *match birth and death records, within each State and*  
18 *among the States, and to note the fact of death on the*  
19 *birth certificates of deceased persons. In developing*  
20 *the capability described in the preceding sentence,*  
21 *States shall focus first on persons who were born after*  
22 *1950.*

23               (ii) *Such grants shall be provided in proportion*  
24 *to population and in an amount needed to provide a*

1        *substantial incentive for the States to develop such ca-*  
2        *pability.*

3            *(B) The Secretary of Health and Human Serv-*  
4        *ices shall establish a fund, administered through the*  
5        *National Center for Health Statistics, to provide*  
6        *grants to the States for a project in each of 5 States*  
7        *to demonstrate the feasibility of a system by which*  
8        *each such State's office of vital statistics would be*  
9        *provided, within 24 hours, sufficient information to*  
10       *establish the fact of death of every individual dying*  
11       *in such State.*

12           *(C) There are authorized to be appropriated to*  
13        *the Department of Health and Human Services such*  
14        *amounts as may be necessary to provide the grants*  
15        *described in subparagraphs (A) and (B).*

16           *(4) REPORT.—(A) Not later than one year after*  
17        *the date of the enactment of this Act, the Secretary of*  
18        *Health and Human Services shall submit a report to*  
19        *the Congress on ways to reduce the fraudulent obtain-*  
20        *ing and the fraudulent use of birth certificates, in-*  
21        *cluding any such use to obtain a social security ac-*  
22        *count number or a State or Federal document related*  
23        *to identification or immigration.*

24           *(B) Not later than one year after the date of en-*  
25        *actment of this Act, the agency designated by the*

1       *President in paragraph (1)(B) shall submit a report*  
 2       *setting forth, and explaining, the regulations de-*  
 3       *scribed in such paragraph.*

4               *(C) There are authorized to be appropriated to*  
 5       *the Department of Health and Human Services such*  
 6       *amounts as may be necessary for the preparation of*  
 7       *the report described in subparagraph (A).*

8               *(5) CERTIFICATE OF BIRTH.—As used in this*  
 9       *section, the term “birth certificate” means a certifi-*  
 10       *cate of birth of—*

11               *(A) a person born in the United States, or*

12               *(B) a person born abroad who is a citizen*  
 13       *or national of the United States at birth, whose*  
 14       *birth is registered in the United States.*

15               *(6) EFFECTIVE DATES.—*

16               *(A) Except as otherwise provided in sub-*  
 17       *paragraph (B) and in paragraph (4), this sub-*  
 18       *section shall take effect two years after the enact-*  
 19       *ment of this Act.*

20               *(B) Paragraph (1)(A) shall take effect two*  
 21       *years after the submission of the report described*  
 22       *in paragraph (4)(B).*

23       *(b) STATE-ISSUED DRIVERS LICENSES.—*

24               *(1) SOCIAL SECURITY ACCOUNT NUMBER.—Each*  
 25       *State-issued driver’s license and identification docu-*

1        *ment shall contain a social security account number,*  
2        *except that this paragraph shall not apply if the doc-*  
3        *ument or license is issued by a State that requires,*  
4        *pursuant to a statute, regulation, or administrative*  
5        *policy which was, respectively, enacted, promulgated,*  
6        *or implemented, prior to the date of enactment of this*  
7        *Act, that—*

8                *(A) every applicant for such license or docu-*  
9                *ment submit the number, and*

10               *(B) an agency of such State verify with the*  
11               *Social Security Administration that the number*  
12               *is valid and is not a number assigned for use by*  
13               *persons without authority to work in the United*  
14               *States, but not that the number appears on the*  
15               *card.*

16               *(2) APPLICATION PROCESS.—The application*  
17               *process for a State driver's license or identification*  
18               *document shall include the presentation of such evi-*  
19               *dence of identity as is required by regulations pro-*  
20               *mulgated by the Secretary of Transportation, after*  
21               *consultation with the American Association of Motor*  
22               *Vehicle Administrators.*

23               *(3) FORM OF LICENSE AND IDENTIFICATION DOC-*  
24               *UMENT.—Each State driver's license and identifica-*  
25               *tion document shall be in a form consistent with re-*

1        *quirements set forth in regulations promulgated by*  
2        *the Secretary of Transportation, after consultation*  
3        *with the American Association of Motor Vehicle Ad-*  
4        *ministrators. Such form shall contain security fea-*  
5        *tures designed to limit tampering, counterfeiting, and*  
6        *use by impostors.*

7                (4) *LIMITATION ON ACCEPTANCE OF LICENSE*  
8        *AND IDENTIFICATION DOCUMENT.—Neither the Social*  
9        *Security Administration or the Passport Office or*  
10        *any other Federal agency or any State or local gov-*  
11        *ernment agency may accept for any evidentiary pur-*  
12        *pose a State driver's license or identification docu-*  
13        *ment in a form other than the form described in*  
14        *paragraph (3).*

15                (5) *EFFECTIVE DATES.—*

16                (A) *Except as otherwise provided in sub-*  
17        *paragraph (B) or (C), this subsection shall take*  
18        *effect on October 1, 2000.*

19                (B)(i) *With respect to driver's licenses or*  
20        *identification documents issued by States that*  
21        *issue such licenses or documents for a period of*  
22        *validity of six years or less, paragraphs (1) and*  
23        *(3) shall apply beginning on October 1, 2000,*  
24        *but only to licenses or documents issued to an*

individual for the first time and to replacement or renewal licenses issued according to State law.

(ii) With respect to driver's licenses or identification documents issued in States that issue such licenses or documents for a period of validity of more than six years, paragraphs (1) and (3) shall apply—

(I) during the period of October 1, 2000 through September 30, 2006, only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses issued according to State law, and

(II) beginning on October 1, 2006, to all driver's licenses or identification documents issued by such States.

(C) Paragraph (4) shall take effect on October 1, 2006.

**SEC. 119. ENHANCED CIVIL PENALTIES IF LABOR STANDARDS VIOLATIONS ARE PRESENT.**

(a) IN GENERAL.—Section 274A(e) (8 U.S.C. 1324a(e)) is amended by adding at the end the following:

“(10)(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the

1        *amount of the penalty prescribed by this subsection in*  
2        *any case in which the employer has been found to*  
3        *have committed a willful violation or repeated viola-*  
4        *tions of any of the following statutes:*

5                *“(i) The Fair Labor Standards Act (29*  
6                *U.S.C. 201 et seq.) pursuant to a final deter-*  
7                *mination by the Secretary of Labor or a court*  
8                *of competent jurisdiction.*

9                *“(ii) The Migrant and Seasonal Agricul-*  
10                *tural Worker Protection Act (29 U.S.C. 1801 et*  
11                *seq.) pursuant to a final determination by the*  
12                *Secretary of Labor or a court of competent*  
13                *jurisdiction.*

14                *“(iii) The Family and Medical Leave Act*  
15                *(29 U.S.C. 2601 et seq.) pursuant to a final de-*  
16                *termination by the Secretary of Labor or a court*  
17                *of competent jurisdiction.*

18                *“(B) The Secretary of Labor and the Attorney*  
19                *General shall consult regarding the administration of*  
20                *this paragraph.”.*

21                *(b) EFFECTIVE DATE.—The amendments made by this*  
22                *section shall apply with respect to offenses occurring on or*  
23                *after the date of the enactment of this Act.*

1 **SEC. 120. INCREASED NUMBER OF ASSISTANT UNITED**  
 2 **STATES ATTORNEYS TO PROSECUTE CASES**  
 3 **OF UNLAWFUL EMPLOYMENT OF ALIENS OR**  
 4 **DOCUMENT FRAUD.**

5 *The Attorney General is authorized to hire for fiscal*  
 6 *years 1996 and 1997 such additional Assistant United*  
 7 *States Attorneys as may be necessary for the prosecution*  
 8 *of actions brought under sections 274A and 274C of the Im-*  
 9 *migration and Nationality Act and sections 911, 1001,*  
 10 *1015 through 1018, 1028, 1030, 1541 through 1544, 1546,*  
 11 *and 1621 of title 18, United States Code. Each such addi-*  
 12 *tional attorney shall be used primarily for such prosecu-*  
 13 *tions.*

14 **SEC. 120A. SUBPOENA AUTHORITY FOR CASES OF UNLAW-**  
 15 **FUL EMPLOYMENT OF ALIENS OR DOCUMENT**  
 16 **FRAUD.**

17 *(a) IMMIGRATION OFFICER AUTHORITY.—*

18 *(1) UNLAWFUL EMPLOYMENT.—Section*  
 19 *274A(e)(2) (8 U.S.C. 1324a(e)(1)) is amended—*

20 *(A) by striking “and” at the end of sub-*  
 21 *paragraph (A);*

22 *(B) by striking the period at the end of sub-*  
 23 *paragraph (B) and inserting “, and”; and*

24 *(C) by inserting after subparagraph (B) the*  
 25 *following new subparagraph:*



1           “(C) immigration officers designated by the  
 2           Commissioner may compel by subpoena the at-  
 3           tendance of witnesses and the production of evi-  
 4           dence at any designated place prior to the filing  
 5           of a complaint in a case under paragraph (2).”.

6           (2) *DOCUMENT FRAUD*.—Section 274C(d)(1) (8  
 7           U.S.C. 1324c(d)(1)) is amended—

8                     (A) by striking “and” at the end of sub-  
 9                     paragraph (A);

10                    (B) by striking the period at the end of sub-  
 11                    paragraph (B) and inserting “, and”; and

12                    (C) by inserting after subparagraph (B) the  
 13                    following new subparagraph:

14                    “(C) immigration officers designated by the  
 15                    Commissioner may compel by subpoena the at-  
 16                    tendance of witnesses and the production of evi-  
 17                    dence at any designated place prior to the filing  
 18                    of a complaint in a case under paragraph (2).”.

19           (b) *SECRETARY OF LABOR SUBPOENA AUTHORITY*.—

20                    (1) *IN GENERAL*.—Chapter 9 of title II of the  
 21                    Immigration and Nationality Act is amended by add-  
 22                    ing at the end the following new section:

23                    “*SECRETARY OF LABOR SUBPOENA AUTHORITY*

24                    “*SEC. 294. The Secretary of Labor may issue subpoe-*  
 25                    *nas requiring the attendance and testimony of witnesses or*  
 26                    *the production of any records, books, papers, or documents*

1 *in connection with any investigation or hearing conducted*  
 2 *in the enforcement of any immigration program for which*  
 3 *the Secretary of Labor has been delegated enforcement au-*  
 4 *thority under the Act. In such hearing, the Secretary of*  
 5 *Labor may administer oaths, examine witnesses, and re-*  
 6 *ceive evidence. For the purpose of any such hearing or in-*  
 7 *vestigation, the authority contained in sections 9 and 10*  
 8 *of the Federal Trade Commission Act (15 U.S.C. 49, 50),*  
 9 *relating to the attendance of witnesses and the production*  
 10 *of books, papers, and documents, shall be available to the*  
 11 *Secretary of Labor.”.*

12 (2) *CONFORMING AMENDMENT.—The table of*  
 13 *contents of the Immigration and Nationality Act is*  
 14 *amended by inserting after the item relating to sec-*  
 15 *tion 293 the following new item:*

*“Sec. 294. Secretary of Labor subpoena authority.”.*

16 **SEC. 120B. TASK FORCE TO IMPROVE PUBLIC EDUCATION**  
 17 **REGARDING UNLAWFUL EMPLOYMENT OF**  
 18 **ALIENS AND UNFAIR IMMIGRATION-RELATED**  
 19 **EMPLOYMENT PRACTICES.**

20 (a) *ESTABLISHMENT.—The Attorney General shall es-*  
 21 *tablish a task force within the Department of Justice*  
 22 *charged with the responsibility of—*

23 (1) *providing advice and guidance to employers*  
 24 *and employees relating to unlawful employment of*  
 25 *aliens under section 274A of the Immigration and*

1       *Nationality Act and unfair immigration-related em-*  
 2       *ployment practices under 274B of such Act; and*

3               *(2) assisting employers in complying with those*  
 4       *laws.*

5       **(b) COMPOSITION.**—*The members of the task force shall*  
 6       *be designated by the Attorney General from among officers*  
 7       *or employees of the Immigration and Naturalization Serv-*  
 8       *ice or other components of the Department of Justice.*

9       **(c) ANNUAL REPORT.**—*The task force shall report an-*  
 10       *nually to the Attorney General on its operations.*

11       **SEC. 120C. NATIONWIDE FINGERPRINTING OF APPRE-**  
 12       **HENDED ALIENS.**

13       *There are authorized to be appropriated such addi-*  
 14       *tional sums as may be necessary to ensure that the program*  
 15       *“IDENT”, operated by the Immigration and Naturaliza-*  
 16       *tion Service pursuant to section 130007 of Public Law 103–*  
 17       *322, shall be expanded into a nationwide program.*

18       **SEC. 120D. APPLICATION OF VERIFICATION PROCEDURES**  
 19       **TO STATE AGENCY REFERRALS OF EMPLOY-**  
 20       **MENT.**

21       *Section 274A(a) (8 U.S.C. 1324a(a)) is amended by*  
 22       *adding at the end the following new paragraph:*

23               **“(6) STATE AGENCY REFERRALS.**—*A State em-*  
 24       *ployment agency that refers any individual for em-*  
 25       *ployment shall comply with the procedures specified*

1        *in subsection (b). For purposes of the attestation re-*  
 2        *quirement in subsection (b)(1), the agency employee*  
 3        *who is primarily involved in the referral of the indi-*  
 4        *vidual shall make the attestation on behalf of the*  
 5        *agency.”.*

6        **SEC. 120E. RETENTION OF VERIFICATION FORM.**

7        *Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amended*  
 8        *by inserting after “must retain the form” the following:*  
 9        *“(except in any case of disaster, act of God, or other event*  
 10       *beyond the control of the person or entity)”.*

11       **PART 3—ALIEN SMUGGLING; DOCUMENT FRAUD**

12       **SEC. 121. WIRETAP AUTHORITY FOR INVESTIGATIONS OF**  
 13       **ALIEN SMUGGLING OR DOCUMENT FRAUD.**

14       *Section 2516(1) of title 18, United States Code, is*  
 15       *amended—*

16                *(1) in paragraph (c), by striking “or section*  
 17        *1992 (relating to wrecking trains)” and inserting*  
 18        *“section 1992 (relating to wrecking trains), a felony*  
 19        *violation of section 1028 (relating to production of*  
 20        *false identification documentation), section 1425 (re-*  
 21        *lating to the procurement of citizenship or national-*  
 22        *ization unlawfully), section 1426 (relating to the re-*  
 23        *production of naturalization or citizenship papers),*  
 24        *section 1427 (relating to the sale of naturalization or*  
 25        *citizenship papers), section 1541 (relating to passport*

1       *issuance without authority), section 1542 (relating to*  
 2       *false statements in passport applications), section*  
 3       *1543 (relating to forgery or false use of passports),*  
 4       *section 1544 (relating to misuse of passports), or sec-*  
 5       *tion 1546 (relating to fraud and misuse of visas, per-*  
 6       *mits, and other documents)”;*

7               *(2) by striking “or” at the end of paragraph (l);*

8               *(3) by redesignating paragraphs (m), (n), and*  
 9       *(o) as paragraphs (n), (o), and (p), respectively; and*

10              *(4) by inserting after paragraph (l) the following*  
 11       *new paragraph:*

12       *“(m) a violation of section 274, 277, or 278 of the Im-*  
 13       *migration and Nationality Act (8 U.S.C. 1324, 1327, or*  
 14       *1328) (relating to the smuggling of aliens);”.*

15       **SEC. 122. ADDITIONAL COVERAGE IN RICO FOR OFFENSES**

16                       **RELATING TO ALIEN SMUGGLING AND DOCU-**  
 17                       **MENT FRAUD.**

18       *Section 1961(1) of title 18, United States Code, is*  
 19       *amended—*

20               *(1) by striking “or” after “law of the United*  
 21       *States,”;*

22               *(2) by inserting “or” at the end of clause (E);*  
 23       *and*

(3) by adding at the end the following: “(F) any act, or conspiracy to commit any act, in violation of—

“(i) section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), or section 1544 (relating to misuse of passports) of this title, or, for personal financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title; or

“(ii) section 274, 277, or 278 of the Immigration and Nationality Act.”.

**SEC. 123. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.**

(a) *IN GENERAL*.—Section 274(a) (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)(A)—

1           (A) by striking “or” at the end of clause  
2           (iii);

3           (B) by striking the comma at the end of  
4           clause (iv) and inserting “; or”; and

5           (C) by adding at the end the following new  
6           clause:

7                   “(v)(I) engages in any conspiracy to  
8                   commit any of the preceding acts, or

9                   “(II) aids or abets the commission of  
10                  any of the preceding acts,”;

11          (2) in paragraph (1)(B)—

12                  (A) in clause (i), by inserting “or (v)(I)”  
13                  after “(A)(i)”;

14                  (B) in clause (ii), by striking “or (iv)” and  
15                  inserting “(iv), or (v)(II)”;

16                  (C) in clause (iii), by striking “or (iv)” and  
17                  inserting “(iv), or (v)”;

18                  (D) in clause (iv), by striking “or (iv)” and  
19                  inserting “(iv), or (v)”;

20          (3) in paragraph (2)—

21                  (A) in the matter preceding subparagraph  
22                  (A), by striking “for each transaction constitut-  
23                  ing a violation of this paragraph, regardless of  
24                  the number of aliens involved” and inserting

1           *“for each alien in respect to whom a violation of*  
2           *this paragraph occurs”*; and

3                     *(B) in the matter following subparagraph*  
4           *(B)(iii), by striking “be fined” and all that fol-*  
5           *lows through the period and inserting the follow-*  
6           *ing: “be fined under title 18, United States Code,*  
7           *and shall be imprisoned for a first or second of-*  
8           *fense, not more than 10 years, and for a third*  
9           *or subsequent offense, not more than 15 years.”*;  
10          *and*

11          *(4) by adding at the end the following new para-*  
12          *graph:*

13                 *“(3) Any person who hires for employment an*  
14          *alien—*

15                     *“(A) knowing that such alien is an unau-*  
16           *thorized alien (as defined in section 274A(h)(3)),*  
17           *and*

18                     *“(B) knowing that such alien has been*  
19           *brought into the United States in violation of*  
20           *this subsection,*

21           *shall be fined under title 18, United States Code, and*  
22           *shall be imprisoned for not more than 5 years.”*.

23          ***(b) SMUGGLING OF ALIENS WHO WILL COMMIT***  
24          ***CRIMES.—Section 274(a)(2)(B) (8 U.S.C. 1324(a)(2)) is***  
25          ***amended—***



- 1           (1) by striking “or” at the end of clause (ii);  
2           (2) by redesignating clause (iii) as clause (iv);  
3       *and*  
4           (3) by inserting after clause (ii) the following  
5       *new clause:*

6                       “(iii) an offense committed with the  
7                       intent, or with substantial reason to believe,  
8                       that the alien unlawfully brought into the  
9                       United States will commit an offense  
10                      against the United States or any State pun-  
11                      ishable by imprisonment for more than 1  
12                      year; or”.

13       (c) *SENTENCING GUIDELINES.*—

14           (1) *IN GENERAL.*—Pursuant to its authority  
15       under section 994(p) of title 28, United States Code,  
16       the United States Sentencing Commission shall pro-  
17       mulgate sentencing guidelines or amend existing sen-  
18       tencing guidelines for offenders convicted of offenses  
19       related to smuggling, transporting, harboring, or in-  
20       ducing aliens in violation of section 274(a) (1)(A) or  
21       (2)(B) of the Immigration and Nationality Act (8  
22       U.S.C. 1324(a) (1)(A), (2)(B)) in accordance with  
23       this subsection.

1           (2) *REQUIREMENTS.—In carrying out this sub-*  
2           *section, the Commission shall, with respect to the of-*  
3           *fenses described in paragraph (1)—*

4                   (A) *increase the base offense level for such*  
5                   *offenses at least 3 offense levels above the appli-*  
6                   *cable level in effect on the date of the enactment*  
7                   *of this Act;*

8                   (B) *review the sentencing enhancement for*  
9                   *the number of aliens involved (U.S.S.G.*  
10                   *2L1.1(b)(2)), and increase the sentencing en-*  
11                   *hancement by at least 50 percent above the ap-*  
12                   *plicable enhancement in effect on the date of the*  
13                   *enactment of this Act;*

14                   (C) *impose an appropriate sentencing en-*  
15                   *hancement upon an offender with 1 prior felony*  
16                   *conviction arising out of a separate and prior*  
17                   *prosecution for an offense that involved the same*  
18                   *or similar underlying conduct as the current of-*  
19                   *fense, to be applied in addition to any sentenc-*  
20                   *ing enhancement that would otherwise apply*  
21                   *pursuant to the calculation of the defendant's*  
22                   *criminal history category;*

23                   (D) *impose an additional appropriate sen-*  
24                   *tencing enhancement upon an offender with 2 or*  
25                   *more prior felony convictions arising out of sep-*

1        *arate and prior prosecutions for offenses that in-*  
2        *volved the same or similar underling conduct as*  
3        *the current offense, to be applied in addition to*  
4        *any sentencing enhancement that would other-*  
5        *wise apply pursuant to the calculation of the de-*  
6        *fendant's criminal history category;*

7            *(E) impose an appropriate sentencing en-*  
8        *hancement on a defendant who, in the course of*  
9        *committing an offense described in this sub-*  
10       *section—*

11           *(i) murders or otherwise causes death,*  
12        *bodily injury, or serious bodily injury to an*  
13        *individual;*

14           *(ii) uses or brandishes a firearm or*  
15        *other dangerous weapon; or*

16           *(iii) engages in conduct that con-*  
17        *sciously or recklessly places another in seri-*  
18        *ous danger of death or serious bodily injury;*

19        *(F) consider whether a downward adjust-*  
20        *ment is appropriate if the offense conduct in-*  
21        *volves fewer than 6 aliens or the defendant com-*  
22        *mitted the offense other than for profit; and*

23           *(G) consider whether any other aggravating*  
24        *or mitigating circumstances warrant upward or*  
25        *downward sentencing adjustments.*

1       (d) *EMERGENCY AUTHORITY TO SENTENCING COMMIS-*  
 2 *SION.—The Commission shall promulgate the guidelines or*  
 3 *amendments provided for under this section as soon as*  
 4 *practicable in accordance with the procedure set forth in*  
 5 *section 21(a) of the Sentencing Act of 1987, as though the*  
 6 *authority under that Act had not expired.*

7       (e) *EFFECTIVE DATE.—This section and the amend-*  
 8 *ments made by this section shall apply with respect to of-*  
 9 *fenses occurring on or after the date of the enactment of*  
 10 *this Act.*

11 **SEC. 124. ADMISSIBILITY OF VIDEOTAPED WITNESS**  
 12 **TESTIMONY.**

13       Section 274 (8 U.S.C. 1324) is amended by adding  
 14 at the end thereof the following new subsection:

15       “(d) Notwithstanding any provision of the Federal  
 16 Rules of Evidence, the videotaped (or otherwise audio-  
 17 visually preserved) deposition of a witness to a violation  
 18 of subsection (a) who has been deported or otherwise ex-  
 19 pelled from the United States, or is otherwise unable to tes-  
 20 tify, may be admitted into evidence in an action brought  
 21 for that violation if the witness was available for cross ex-  
 22 amination and the deposition otherwise complies with the  
 23 Federal Rules of Evidence.”.

1 **SEC. 125. EXPANDED FORFEITURE FOR ALIEN SMUGGLING**  
2 **AND DOCUMENT FRAUD.**

3 (a) *IN GENERAL.*—Section 274(b) (8 U.S.C. 1324(b))  
4 *is amended—*

5 (1) *by amending paragraph (1) to read as*  
6 *follows:*

7 “(1) Any property, real or personal, which fa-  
8 cilitates or is intended to facilitate, or has been or is  
9 being used in or is intended to be used in the commis-  
10 sion of, a violation of, or conspiracy to violate, sub-  
11 section (a) or section 1028, 1425, 1426, 1427, 1541,  
12 1542, 1543, 1544, or 1546 of title 18, United States  
13 Code, or which constitutes, or is derived from or  
14 traceable to, the proceeds obtained directly or indi-  
15 rectly from a commission of a violation of, or conspir-  
16 acy to violate, subsection (a) or section 1028, 1425,  
17 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title  
18 18, United States Code, shall be subject to seizure and  
19 forfeiture, except that—

20 “(A) no property used by any person as a  
21 common carrier in the transaction of business as  
22 a common carrier shall be forfeited under the  
23 provisions of this section unless it shall appear  
24 that the owner or other person in charge of such  
25 property was a consenting party or privy to the  
26 unlawful act;

1           “(B) no property shall be forfeited under  
2           this section by reason of any act or omission es-  
3           tablished by the owner thereof to have been com-  
4           mitted or omitted by any person other than such  
5           owner while such property was unlawfully in the  
6           possession of a person other than the owner in  
7           violation of, or in conspiracy to violate, the  
8           criminal laws of the United States or of any  
9           State; and

10           “(C) no property shall be forfeited under  
11           this paragraph to the extent of an interest of any  
12           owner, by reason of any act or omission estab-  
13           lished by such owner to have been committed or  
14           omitted without the knowledge or consent of such  
15           owner, unless such act or omission was commit-  
16           ted by an employee or agent of such owner, and  
17           facilitated or was intended to facilitate, the com-  
18           mission of a violation of, or a conspiracy to vio-  
19           late, subsection (a) or section 1028, 1425, 1426,  
20           1427, 1541, 1542, 1543, 1544, or 1546 of title  
21           18, United States Code, or was intended to fur-  
22           ther the business interests of the owner, or to con-  
23           fer any other benefit upon the owner.”;  
24           (2) in paragraph (2)—

1           (A) by striking “conveyance” both places it  
2           appears and inserting “property”; and

3           (B) by striking “is being used in” and in-  
4           serting “is being used in, is facilitating, has fa-  
5           cilitated, or was intended to facilitate”;

6           (3) in paragraph (3)—

7           (A) by inserting “(A)” immediately after  
8           “(3)”, and

9           (B) by adding at the end the following:

10           “(B) Before the seizure of any real property  
11           pursuant to this section, the Attorney General  
12           shall provide notice and an opportunity to be  
13           heard to the owner of the property. The Attorney  
14           General shall prescribe such regulations as may  
15           be necessary to carry out this subparagraph.”;

16           (4) in paragraphs (4) and (5), by striking “a  
17           conveyance” and “conveyance” each place such phrase  
18           or word appears and inserting “property”; and

19           (5) in paragraph (4)—

20           (A) by striking “or” at the end of subpara-  
21           graph (C);

22           (B) by striking the period at the end of sub-  
23           paragraph (D) and inserting “; or”; and

24           (C) by adding at the end the following new  
25           subparagraph:

1           “(E) transfer custody and ownership of for-  
 2           feited property to any Federal, State, or local  
 3           agency pursuant to section 616(c) of the Tariff  
 4           Act of 1930 (19 U.S.C. 1616a(c)).”.

5           (b) *EFFECTIVE DATE.*—The amendments made by this  
 6           section shall apply with respect to offenses occurring on or  
 7           after the date of the enactment of this Act.

8           **SEC. 126. CRIMINAL FORFEITURE FOR ALIEN SMUGGLING,**  
 9                               **UNLAWFUL EMPLOYMENT OF ALIENS, OR**  
 10                              **DOCUMENT FRAUD.**

11           Section 274 (8 U.S.C. 1324(b)) is amended by redesign-  
 12           nating subsections (c) and (d) as subsections (d) and (e)  
 13           and inserting after subsection (b) the following:

14           “(c) *CRIMINAL FORFEITURE.*—(1) Any person con-  
 15           victed of a violation of, or a conspiracy to violate, sub-  
 16           section (a) or section 274A(a) (1) or (2) of this Act, or sec-  
 17           tion 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or  
 18           1546 of title 18, United States Code, shall forfeit to the  
 19           United States, regardless of any provision of State law—

20                       “(A) any conveyance, including any vessel, vehi-  
 21           cle, or aircraft used in the commission of a violation  
 22           of, or a conspiracy to violate, subsection (a); and

23                       “(B) any property real or personal—

24                               “(i) that constitutes, or is derived from or  
 25                               is traceable to the proceeds obtained directly or



1           *indirectly from the commission of a violation of,*  
2           *or a conspiracy to violate, subsection (a), section*  
3           *274A(a) (1) or (2) of this Act, or section 1028,*  
4           *1425, 1426, 1427, 1541, 1542, 1543, 1544, or*  
5           *1546 of title 18, United States Code; or*

6           “(ii) *that is used to facilitate, or is intended*  
7           *to be used to facilitate, the commission of a vio-*  
8           *lation of, or a conspiracy to violate, subsection*  
9           *(a), section 274A(a) (1) or (2) of this Act, or sec-*  
10          *tion 1028, 1425, 1426, 1427, 1541, 1542, 1543,*  
11          *1544, or 1546 of title 18, United States Code.*

12          *The court, in imposing sentence on such person, shall order*  
13          *that the person forfeit to the United States all property de-*  
14          *scribed in this subsection.*

15          “(2) *The criminal forfeiture of property under this*  
16          *subsection, including any seizure and disposition of the*  
17          *property and any related administrative or judicial pro-*  
18          *ceeding, shall be governed by the provisions of section 413*  
19          *of the Comprehensive Drug Abuse Prevention and Control*  
20          *Act of 1970 (21 U.S.C. 853), other than subsections (a) and*  
21          *(d) of such section 413.”.*

1 **SEC. 127. INCREASED CRIMINAL PENALTIES FOR**  
2 **FRAUDULENT USE OF GOVERNMENT-ISSUED**  
3 **DOCUMENTS.**

4 (a) *PENALTIES FOR FRAUD AND MISUSE OF GOVERN-*  
5 *MENT-ISSUED IDENTIFICATION DOCUMENTS.*—(1) *Section*  
6 *1028(b) of title 18, United States Code, is amended to read*  
7 *as follows:*

8 “(b)(1)(A) *An offense under subsection (a) that is—*  
9 *“(i) the production or transfer of an identifica-*  
10 *tion document or false identification document that is*  
11 *or appears to be—*

12 *“(I) an identification document issued by*  
13 *or under the authority of the United States; or*

14 *“(II) a birth certificate, or a driver’s license*  
15 *or personal identification card;*

16 *“(ii) the production or transfer of more than five*  
17 *identification documents or false identification docu-*  
18 *ments; or*

19 *“(iii) an offense under paragraph (5) of such*  
20 *subsection (a);*

21 *shall be punishable under subparagraph (B).*

22 “(B) *Except as provided in paragraph (4), a person*  
23 *who violates an offense described in subparagraph (A) shall*  
24 *be punishable by—*

1           “(i) a fine under this title, imprisonment for not  
2           more than 10 years, or both, for a first or second of-  
3           fense; or

4           “(ii) a fine under this title, imprisonment for  
5           not more than 15 years, or both, for a third or subse-  
6           quent offense.

7           “(2) A person convicted of an offense under subsection  
8 (a) that is—

9           “(A) any other production or transfer of an  
10          identification document or false identification docu-  
11          ment; or

12          “(B) an offense under paragraph (3) of such sub-  
13          section;

14 shall be punishable by a fine under this title, imprisonment  
15 for not more than three years, or both.

16          “(3) A person convicted of an offense under subsection  
17 (a), other than an offense described in paragraph (1) or  
18 (2), shall be punishable by a fine under this title, imprison-  
19 ment for not more than one year, or both.

20          “(4) Notwithstanding any other provision of this sec-  
21 tion, the maximum term of imprisonment that may be im-  
22 posed for an offense described in paragraph (1)(A) shall  
23 be—

1           “(A) if committed to facilitate a drug trafficking  
2       crime (as defined in section 929(a) of this title), 15  
3       years; and

4           “(B) if committed to facilitate an act of inter-  
5       national terrorism (as defined in section 2331 of this  
6       title), 20 years.”.

7       (2) Sections 1541 through 1544 of title 18, United  
8       States Code, are amended by striking *be fined under this*  
9       *title, imprisoned not more than 10 years, or both.*” each  
10      place it appears and inserting the following:

11       “, except as otherwise provided in this section, be—

12           “(1) *fined under this title, imprisoned for not*  
13       *more than 10 years, or both, for a first or second of-*  
14       *fense; or*

15           “(2) *fined under this title, imprisoned for not*  
16       *more than 15 years, or both, for a third or subsequent*  
17       *offense.*

18       “Notwithstanding any other provision of this section,  
19       the maximum term of imprisonment that may be imposed  
20       for an offense under this section—

21           “(1) if committed to facilitate a drug trafficking  
22       crime (as defined in section 929(a) of this title), is 15  
23       years; and

1           “(2) if committed to facilitate an act of inter-  
2           national terrorism (as defined in section 2331 of this  
3           title), is 20 years.”.

4           (3) Section 1546(a) of title 18, United States Code,  
5           is amended by striking “be fined under this title, impris-  
6           oned not more than 10 years, or both.” and inserting the  
7           following:

8           “, except as otherwise provided in this subsection, be—

9           “(1) fined under this title, imprisoned for not  
10          more than 10 years, or both, for a first or second of-  
11          fense; or

12          “(2) fined under this title, imprisoned for not  
13          more than 15 years, or both, for a third or subsequent  
14          offense.

15          “Notwithstanding any other provision of this sub-  
16          section, the maximum term of imprisonment that may be  
17          imposed for an offense under this subsection—

18          “(1) if committed to facilitate a drug trafficking  
19          crime (as defined in section 929(a) of this title), is 15  
20          years; and

21          “(2) if committed to facilitate an act of inter-  
22          national terrorism (as defined in section 2331 of this  
23          title), is 20 years.”.

24          (4) Sections 1425 through 1427 of title 18, United  
25          States Code, are amended by striking “be fined not more

1 *than \$5,000 or imprisoned not more than five years, or*  
 2 *both” each place it appears and inserting “, except as other-*  
 3 *wise provided in this section, be—*

4 *“(1) fined under this title, imprisoned for not*  
 5 *more than 10 years, or both, for a first or second of-*  
 6 *fense; or*

7 *“(2) fined under this title, imprisoned for not*  
 8 *more than 15 years, or both, for a third or subsequent*  
 9 *offense.*

10 *“Notwithstanding any other provision of this section,*  
 11 *the maximum term of imprisonment that may be imposed*  
 12 *for an offense under this section—*

13 *“(1) if committed to facilitate a drug trafficking*  
 14 *crime (as defined in section 929(a) of this title), is 15*  
 15 *years; and*

16 *“(2) if committed to facilitate an act of inter-*  
 17 *national terrorism (as defined in section 2331 of this*  
 18 *title), is 20 years.”.*

19 *(b) CHANGES TO THE SENTENCING LEVELS.—*

20 *(1) IN GENERAL.—Pursuant to the Commission’s*  
 21 *authority under section 994(p) of title 28, United*  
 22 *States Code, the United States Sentencing Commis-*  
 23 *sion shall promulgate sentencing guidelines or amend*  
 24 *existing sentencing guidelines for offenders convicted*  
 25 *of violating, or conspiring to violate, sections*

1       1028(b)(1), 1425 through 1427, 1541 through 1544,  
2       and 1546(a) of title 18, United States Code, in ac-  
3       cordance with this subsection.

4               (2) *REQUIREMENTS.*—*In carrying out this sub-*  
5       *section, the Commission shall, with respect to the of-*  
6       *fenses referred to in paragraph (1)—*

7                       (A) *increase the base offense level for such*  
8       *offenses at least 2 offense levels above the level in*  
9       *effect on the date of the enactment of this Act;*

10                      (B) *review the sentencing enhancement for*  
11       *number of documents or passports involved*  
12       *(U.S.S.G. 2L2.1(b)(2)), and increase the upward*  
13       *adjustment by at least 50 percent above the ap-*  
14       *plicable enhancement in effect on the date of the*  
15       *enactment of this Act;*

16                      (C) *impose an appropriate sentencing en-*  
17       *hancement upon an offender with 1 prior felony*  
18       *conviction arising out of a separate and prior*  
19       *prosecution for an offense that involved the same*  
20       *or similar underlying conduct as the current of-*  
21       *fense, to be applied in addition to any sentenc-*  
22       *ing enhancement that would otherwise apply*  
23       *pursuant to the calculation of the defendant's*  
24       *criminal history category;*

1           (D) impose an additional appropriate sen-  
2           tencing enhancement upon an offender with 2 or  
3           more prior felony convictions arising out of sep-  
4           arate and prior prosecutions for offenses that in-  
5           volved the same or similar underling conduct as  
6           the current offense, to be applied in addition to  
7           any sentencing enhancement that would other-  
8           wise apply pursuant to the calculation of the de-  
9           fendant's criminal history category;

10          (E) consider whether a downward adjust-  
11          ment is appropriate if the offense conduct in-  
12          volves fewer than 6 documents, or the defendant  
13          committed the offense other than for profit and  
14          the offense was not committed to facilitate an act  
15          of international terrorism; and

16          (F) consider whether any other aggravating  
17          or mitigating circumstances warrant upward or  
18          downward sentencing adjustments.

19          (c) *EMERGENCY AUTHORITY TO SENTENCING COMMIS-*  
20          *SION.*—The Commission shall promulgate the guidelines or  
21          amendments provided for under this section as soon as  
22          practicable in accordance with the procedure set forth in  
23          section 21(a) of the Sentencing Act of 1987, as though the  
24          authority under that Act had not expired.



1       (d) *EFFECTIVE DATE.*—*This section and the amend-*  
2 *ments made by this section shall apply with respect to of-*  
3 *fenses occurring on or after the date of the enactment of*  
4 *this Act.*

5       **SEC. 128. CRIMINAL PENALTY FOR FALSE STATEMENT IN A**  
6                       **DOCUMENT REQUIRED UNDER THE IMMIGRA-**  
7                       **TION LAWS OR KNOWINGLY PRESENTING**  
8                       **DOCUMENT WHICH FAILS TO CONTAIN REA-**  
9                       **SONABLE BASIS IN LAW OR FACT.**

10       *The fourth undesignated paragraph of section 1546(a)*  
11 *of title 18, United States Code, is amended to read as fol-*  
12 *lows:*

13       *“Whoever knowingly makes under oath, or as per-*  
14 *mitted under penalty of perjury under section 1746 of title*  
15 *28, United States Code, knowingly subscribes as true, any*  
16 *false statement with respect to a material fact in any appli-*  
17 *cation, affidavit, or other document required by the immi-*  
18 *gration laws or regulations prescribed thereunder, or know-*  
19 *ingly presents any such application, affidavit, or other doc-*  
20 *ument which contains any such false statement or which*  
21 *fails to contain any reasonable basis in law or fact—”.*

1 **SEC. 129. NEW CRIMINAL PENALTIES FOR FAILURE TO DIS-**  
2 **CLOSE ROLE AS PREPARER OF FALSE APPLI-**  
3 **CATION FOR ASYLUM OR FOR PREPARING**  
4 **CERTAIN POST-CONVICTION APPLICATIONS.**

5 *Section 274C (8 U.S.C. 1324c) is amended by adding*  
6 *at the end the following new subsection:*

7 *“(e) CRIMINAL PENALTIES FOR FAILURE TO DIS-*  
8 *CLOSE ROLE AS DOCUMENT PREPARER.—(1) Whoever, in*  
9 *any matter within the jurisdiction of the Service under sec-*  
10 *tion 208 of this Act, knowingly and willfully fails to dis-*  
11 *close, conceals, or covers up the fact that they have, on behalf*  
12 *of any person and for a fee or other remuneration, prepared*  
13 *or assisted in preparing an application which was falsely*  
14 *made (as defined in subsection (f)) for immigration benefits*  
15 *pursuant to section 208 of this Act, or the regulations pro-*  
16 *mulgated thereunder, shall be guilty of a felony and shall*  
17 *be fined in accordance with title 18, United States Code,*  
18 *imprisoned for not more than 5 years, or both, and prohib-*  
19 *ited from preparing or assisting in preparing, whether or*  
20 *not for a fee or other remuneration, any other such applica-*  
21 *tion.*

22 *“(2) Whoever, having been convicted of a violation of*  
23 *paragraph (1), knowingly and willfully prepares or assists*  
24 *in preparing an application for immigration benefits pur-*  
25 *suant to this Act, or the regulations promulgated there-*  
26 *under, whether or not for a fee or other remuneration and*

1 *regardless of whether in any matter within the jurisdiction*  
 2 *of the Service under section 208, shall be guilty of a felony*  
 3 *and shall be fined in accordance with title 18, United States*  
 4 *Code, imprisoned for not more than 15 years, or both, and*  
 5 *prohibited from preparing or assisting in preparing any*  
 6 *other such application.”.*

7 **SEC. 130. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL**  
 8 **PENALTIES FOR DOCUMENT FRAUD.**

9 (a) *ACTIVITIES PROHIBITED.*—Section 274C(a) (8  
 10 *U.S.C. 1324c(a)) is amended—*

11 (1) *in paragraph (1), by inserting before the*  
 12 *comma at the end the following: “or to obtain a bene-*  
 13 *fit under this Act”;*

14 (2) *in paragraph (2), by inserting before the*  
 15 *comma at the end the following: “or to obtain a bene-*  
 16 *fit under this Act”;*

17 (3) *in paragraph (3)—*

18 (A) *by inserting “or with respect to” after*  
 19 *“issued to”;*

20 (B) *by adding before the comma at the end*  
 21 *the following: “or obtaining a benefit under this*  
 22 *Act”; and*

23 (C) *by striking “or” at the end;*

24 (4) *in paragraph (4)—*

1           (A) by inserting “or with respect to” after  
2           “issued to”;

3           (B) by adding before the period at the end  
4           the following: “or obtaining a benefit under this  
5           Act”; and

6           (C) by striking the period at the end and  
7           inserting “, or”; and

8           (5) by adding at the end the following new para-  
9           graphs:

10           “(5) to prepare, file, or assist another in prepar-  
11           ing or filing, any application for benefits under this  
12           Act, or any document required under this Act, or any  
13           document submitted in connection with such applica-  
14           tion or document, with knowledge or in reckless dis-  
15           regard of the fact that such application or document  
16           was falsely made or, in whole or in part, does not re-  
17           late to the person on whose behalf it was or is being  
18           submitted; or

19           “(6) to (A) present before boarding a common  
20           carrier for the purpose of coming to the United States  
21           a document which relates to the alien’s eligibility to  
22           enter the United States, and (B) fail to present such  
23           document to an immigration officer upon arrival at  
24           a United States port of entry.”.

1       (b) *DEFINITION OF FALSELY MAKE.*—Section 274C (8  
 2   U.S.C. 1324c), as amended by section 129 of this Act, is  
 3   further amended by adding at the end the following new  
 4   subsection:

5       “(f) *FALSELY MAKE.*—For purposes of this section, the  
 6   term ‘falsely make’ means to prepare or provide an applica-  
 7   tion or document, with knowledge or in reckless disregard  
 8   of the fact that the application or document contains a false,  
 9   fictitious, or fraudulent statement or material representa-  
 10   tion, or has no basis in law or fact, or otherwise fails to  
 11   state a fact which is material to the purpose for which it  
 12   was submitted.”.

13       (c) *CONFORMING AMENDMENT.*—Section 274C(d)(3)  
 14   (8 U.S.C. 1324c(d)(3)) is amended by striking “each docu-  
 15   ment used, accepted, or created and each instance of use,  
 16   acceptance, or creation” each place it appears and inserting  
 17   “each document that is the subject of a violation under sub-  
 18   section (a)”.

19       (d) *ENHANCED CIVIL PENALTIES FOR DOCUMENT*  
 20   *FRAUD IF LABOR STANDARDS VIOLATIONS ARE*  
 21   *PRESENT.*—Section 274C(d) (8 U.S.C. 1324c(d)) is amend-  
 22   ed by adding at the end the following new paragraph:

23       “(7) *CIVIL PENALTY.*—(A) *The administrative*  
 24       *law judge shall have the authority to require payment*  
 25       *of a civil money penalty in an amount up to two*

1       *times the level of the penalty prescribed by this sub-*  
2       *section in any case where the employer has been*  
3       *found to have committed willful or repeated violations*  
4       *of any of the following statutes:*

5               “(i) *The Fair Labor Standards Act (29*  
6               *U.S.C. 201 et seq.) pursuant to a final deter-*  
7               *mination by the Secretary of Labor or a court*  
8               *of competent jurisdiction.*

9               “(ii) *The Migrant and Seasonal Agricul-*  
10              *tural Worker Protection Act (29 U.S.C. 1801 et*  
11              *seq.) pursuant to a final determination by the*  
12              *Secretary of Labor or a court of competent juris-*  
13              *diction.*

14              “(iii) *The Family and Medical Leave Act*  
15              *(29 U.S.C. 2601 et seq.) pursuant to a final de-*  
16              *termination by the Secretary of Labor or a court*  
17              *of competent jurisdiction.*

18              “(B) *The Secretary of Labor and the Attorney*  
19              *General shall consult regarding the administration of*  
20              *this paragraph.”.*

21       (e) *WAIVER BY ATTORNEY GENERAL.—Section*  
22       *274C(d) (8 U.S.C. 1324c(d)), as amended by subsection (d),*  
23       *is further amended by adding at the end the following new*  
24       *paragraph:*

1           “(8) *WAIVER BY ATTORNEY GENERAL.*—*The At-*  
 2           *torney General may waive the penalties imposed by*  
 3           *this section with respect to an alien who knowingly*  
 4           *violates paragraph (6) if the alien is granted asylum*  
 5           *under section 208 or withholding of deportation*  
 6           *under section 243(h).*”.

7           (f) *EFFECTIVE DATE.*—

8           (1) *DEFINITION OF FALSELY MAKE.*—*Section*  
 9           *274C(f) of the Immigration and Nationality Act, as*  
 10          *added by subsection (b), applies to the preparation of*  
 11          *applications before, on, or after the date of the enact-*  
 12          *ment of this Act.*

13          (2) *ENHANCED CIVIL PENALTIES.*—*The amend-*  
 14          *ments made by subsection (d) apply with respect to*  
 15          *offenses occurring on or after the date of the enact-*  
 16          *ment of this Act.*

17 **SEC. 131. PENALTIES FOR INVOLUNTARY SERVITUDE.**

18          (a) *AMENDMENTS TO TITLE 18.*—*Sections 1581, 1583,*  
 19          *1584, and 1588 of title 18, United States Code, are amended*  
 20          *by striking “five” each place it appears and inserting “10”.*

21          (b) *REVIEW OF SENTENCING GUIDELINES.*—*The Unit-*  
 22          *ed States Sentencing Commission shall ascertain whether*  
 23          *there exists an unwarranted disparity—*

24                  (1) *between the sentences for peonage, involun-*  
 25          *tary servitude, and slave trade offenses, and the sen-*

1        *tences for kidnapping offenses in effect on the date of*  
2        *the enactment of this Act; and*

3            *(2) between the sentences for peonage, involun-*  
4        *tary servitude, and slave trade offenses, and the sen-*  
5        *tences for alien smuggling offenses in effect on the*  
6        *date of the enactment of this Act and after the amend-*  
7        *ment made by subsection (a).*

8        *(c) AMENDMENT OF SENTENCING GUIDELINES.—Pur-*  
9        *suant to its authority under section 994(p) of title 28, Unit-*  
10       *ed States Code, the United States Sentencing Commission*  
11       *shall review its guidelines on sentencing for peonage, invol-*  
12       *untary servitude, and slave trade offenses under sections*  
13       *1581 through 1588 of title 18, United States Code, and shall*  
14       *amend such guidelines as necessary to—*

15            *(1) reduce or eliminate any unwarranted dispar-*  
16        *ity found under subsection (b) that exists between the*  
17        *sentences for peonage, involuntary servitude, and*  
18        *slave trade offenses, and the sentences for kidnapping*  
19        *offenses and alien smuggling offenses;*

20            *(2) ensure that the applicable guidelines for de-*  
21        *fendants convicted of peonage, involuntary servitude,*  
22        *and slave trade offenses are sufficiently stringent to*  
23        *deter such offenses and adequately reflect the heinous*  
24        *nature of such offenses; and*



1           (3) ensure that the guidelines reflect the general  
 2           appropriateness of enhanced sentences for defendants  
 3           whose peonage, involuntary servitude, or slave trade  
 4           offenses involve—

5                     (A) a large number of victims;

6                     (B) the use or threatened use of a dangerous  
 7           weapon; or

8                     (C) a prolonged period of peonage or invol-  
 9           untary servitude.

10          (d) *EMERGENCY AUTHORITY TO SENTENCING COMMIS-*  
 11          *SION.—The Commission shall promulgate the guidelines or*  
 12          *amendments provided for under this section as soon as*  
 13          *practicable in accordance with the procedure set forth in*  
 14          *section 21(a) of the Sentencing Act of 1987, as though the*  
 15          *authority under that Act had not expired.*

16          (e) *EFFECTIVE DATE.—This section and the amend-*  
 17          *ments made by this section shall apply with respect to of-*  
 18          *fenses occurring on or after the date of the enactment of*  
 19          *this Act.*

20          **SEC. 132. EXCLUSION RELATING TO MATERIAL SUPPORT TO**  
 21                               **TERRORISTS.**

22          Section       212(a)(3)(B)(iii)(III)       (8       U.S.C.  
 23          1182(a)(3)(B)(iii)(III)) is amended by inserting “docu-  
 24          mentation or” before “identification”.

1           **PART 4—EXCLUSION AND DEPORTATION**

2   **SEC. 141. SPECIAL EXCLUSION IN EXTRAORDINARY MIGRA-**  
 3                           **TION SITUATIONS.**

4           (a) *IN GENERAL.*—*The Immigration and Nationality*  
 5   *Act is amended by adding after section 236 (8 U.S.C. 1226)*  
 6   *the following new section:*

7           “*SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION*  
 8   *SITUATIONS*

9           “*SEC. 236A. (a) IN GENERAL.*—

10                   “(1) *Notwithstanding the provisions of sections*  
 11                   *235(b) and 236, and subject to subsection (c), if the*  
 12                   *Attorney General determines that the numbers or cir-*  
 13                   *cumstances of aliens en route to or arriving in the*  
 14                   *United States, by land, sea, or air, present an ex-*  
 15                   *traordinary migration situation, the Attorney Gen-*  
 16                   *eral may, without referral to a special inquiry officer,*  
 17                   *order the exclusion and deportation of any alien who*  
 18                   *is found to be excludable under section 212(a) (6)(C)*  
 19                   *or (7).*

20                   “(2) *As used in this section, the term ‘extraor-*  
 21                   *dinary migration situation’ means the arrival or im-*  
 22                   *minent arrival in the United States or its territorial*  
 23                   *waters of aliens who by their numbers or cir-*  
 24                   *cumstances substantially exceed the capacity of the*  
 25                   *inspection and examination of such aliens.*

1           “(3) Subject to paragraph (4), the determination  
2           whether there exists an extraordinary migration situ-  
3           ation within the meaning of paragraphs (1) and (2)  
4           is committed to the sole and exclusive discretion of the  
5           Attorney General.

6           “(4) The provisions of this subsection may be in-  
7           voked under paragraph (1) for a period not to exceed  
8           90 days, unless within such 90-day period or exten-  
9           sion thereof, the Attorney General determines, after  
10          consultation with the Committees on the Judiciary of  
11          the Senate and the House of Representatives, that an  
12          extraordinary migration situation continues to war-  
13          rant such procedures remaining in effect for an addi-  
14          tional 90-day period.

15          “(5) No alien may be ordered specially excluded  
16          under paragraph (1) if—

17                 “(A) such alien is eligible to seek asylum  
18                 under section 208; and

19                 “(B) the Attorney General determines, in  
20                 the procedure described in subsection (b), that  
21                 such alien has a credible fear of persecution on  
22                 account of race, religion, nationality, member-  
23                 ship in a particular social group or political  
24                 opinion in the country of such person’s national-  
25                 ity, or in the case of a person having no nation-

1           *ality, the country in which such person last ha-*  
2           *bitually resided.*

3           “(6) *A special exclusion order entered in accord-*  
4           *ance with the provisions of this section is not subject*  
5           *to administrative review other than as provided in*  
6           *this section, except that the Attorney General shall*  
7           *provide by regulation for a prompt administrative re-*  
8           *view of such an order against an applicant who*  
9           *claims under oath, or as permitted under penalty of*  
10          *perjury under section 1746 of title 28, United States*  
11          *Code, after having been warned of the penalties for*  
12          *falsely making such claim under such conditions, to*  
13          *have been, and appears to have been, lawfully admit-*  
14          *ted for permanent residence.*

15          “(7) *A special exclusion order entered in accord-*  
16          *ance with the provisions of this section shall have the*  
17          *same effect as if the alien had been ordered excluded*  
18          *and deported pursuant to section 236.*

19          “(8) *Nothing in this subsection shall be construed*  
20          *as requiring an inquiry before a special inquiry offi-*  
21          *cer in the case of an alien crewman.*

22          “(b) *PROCEDURE FOR USING SPECIAL EXCLUSION.—*  
23          (1) *When the Attorney General has determined pursuant*  
24          *to this section that an extraordinary migration situation*  
25          *exists and an alien subject to special exclusion under such*

1 *section has indicated a desire to apply for asylum or with-*  
2 *holding of deportation under section 243(h) or has indi-*  
3 *cated a fear of persecution upon return, the immigration*  
4 *officer shall refer the matter to an asylum officer.*

5       “(2) *Such asylum officer shall interview the alien to*  
6 *determine whether the alien has a credible fear of persecu-*  
7 *tion (or of return to persecution) in or from the country*  
8 *of such alien’s nationality, or in the case of a person having*  
9 *no nationality, the country in which such alien last habit-*  
10 *ually resided.*

11       “(3) *The Attorney General shall provide information*  
12 *concerning the procedures described in this section to any*  
13 *alien who is subject to such provisions. The alien may con-*  
14 *sult with or be represented by a person or persons of the*  
15 *alien’s choosing according to regulations prescribed by the*  
16 *Attorney General. Such consultation and representation*  
17 *shall be at no expense to the Government and shall not un-*  
18 *reasonably delay the process.*

19       “(4) *The application for asylum or withholding of de-*  
20 *portation of an alien who has been determined under the*  
21 *procedure described in paragraph (2) to have a credible fear*  
22 *of persecution shall be determined in due course by a special*  
23 *inquiry officer during a hearing on the exclusion of such*  
24 *alien.*

1       “(5) If the officer determines that the alien does not  
2 have a credible fear of persecution in (or of return to perse-  
3 cution from) the country or countries referred to in para-  
4 graph (2), the alien may be specially excluded and deported  
5 in accordance with this section.

6       “(6) The Attorney General shall provide by regulation  
7 for a single level of administrative appellate review of a  
8 special exclusion order entered in accordance with the pro-  
9 visions of this section.

10       “(7) As used in this section, the term ‘asylum officer’  
11 means an immigration officer who—

12               “(A) has had extensive professional training in  
13 country conditions, asylum law, and interview tech-  
14 niques;

15               “(B) has had at least one year of experience ad-  
16 judicating affirmative asylum applications of aliens  
17 who are not in special exclusion proceedings; and

18               “(C) is supervised by an officer who meets the  
19 qualifications described in subparagraphs (A) and  
20 (B).

21       “(8) As used in this section, the term ‘credible fear of  
22 persecution’ means that, in light of statements and evidence  
23 produced by the alien in support of the alien’s claim, and  
24 of such other facts as are known to the officer about country  
25 conditions, a claim by the alien that the alien is eligible

1 *for asylum under section 208 would not be manifestly un-*  
 2 *founded.*

3 “(c) *ALIENS FLEEING ONGOING ARMED CONFLICT,*  
 4 *TORTURE, SYSTEMATIC PERSECUTION, AND OTHER DEPRI-*  
 5 *VATIONS OF HUMAN RIGHTS.*—*Notwithstanding any other*  
 6 *provision of this section, the Attorney General may, in the*  
 7 *Attorney General’s discretion, proceed in accordance with*  
 8 *section 236 with regard to any alien fleeing from a country*  
 9 *where—*

10 “(1) *the government (or a group within the*  
 11 *country that the government is unable or unwilling to*  
 12 *control) engages in—*

13 “(A) *torture or other cruel, inhuman, or de-*  
 14 *grading treatment or punishment;*

15 “(B) *prolonged arbitrary detention without*  
 16 *charges or trial;*

17 “(C) *abduction, forced disappearance or*  
 18 *clandestine detention; or*

19 “(D) *systematic persecution; or*

20 “(2) *an ongoing armed conflict or other extraor-*  
 21 *dinary conditions would pose a serious threat to the*  
 22 *alien’s personal safety.”.*

23 (b) *CONFORMING AMENDMENTS.*—(1)(A) *Section*  
 24 *235(b) of the Immigration and Nationality Act (8 U.S.C.*  
 25 *1225b) is amended to read as follows:*

1       “(b) *Every alien (other than an alien crewman), and*  
 2 *except as otherwise provided in subsection (c) of this section*  
 3 *and in section 273(d), who may not appear to the examin-*  
 4 *ing officer at the port of arrival to be clearly and beyond*  
 5 *a doubt entitled to land shall be detained for further inquiry*  
 6 *to be conducted by a special inquiry officer. The decision*  
 7 *of the examining immigration officer, if favorable to the ad-*  
 8 *mission of any alien, shall be subject to challenge by any*  
 9 *other immigration officer and such challenge shall operate*  
 10 *to take the alien, whose privilege to land is so challenged,*  
 11 *before a special inquiry officer.”.*

12       (B) *Section 237(a) of the Immigration and National-*  
 13 *ity Act (8 U.S.C. 1227a) is amended—*

14           (i) *in the second sentence of paragraph (1), by*  
 15 *striking “Subject to section 235(b)(1), deportation”*  
 16 *and inserting “Deportation”; and*

17           (ii) *in the first sentence of paragraph (2), by*  
 18 *striking “Subject to section (b)(1), if” and inserting*  
 19 *“If”.*

20       (2)(A) *Section 106 of the Immigration and National-*  
 21 *ity Act (8 U.S.C. 1105a) is amended—*

22           (i) *by striking subsection (e); and*

23           (ii) *by amending the section heading to read as*  
 24 *follows: “JUDICIAL REVIEW OF ORDERS OF DEPORTA-*  
 25 *TION AND EXCLUSION”.*



1       (B) *Section 235(d) (8 U.S.C. 1225d) is repealed.*

2       (C) *The item relating to section 106 in the table of*  
 3 *contents of the Immigration and Nationality Act is amend-*  
 4 *ed to read as follows:*

*“106. Judicial review of orders of deportation and exclusion.”.*

5       (3) *Section 241(d) (8 U.S.C. 1251d) is repealed.*

6       **SEC. 142. JUDICIAL REVIEW OF ORDERS OF EXCLUSION**  
 7               **AND DEPORTATION.**

8       (a) *IN GENERAL.—Section 106 (8 U.S.C. 1105a) is*  
 9 *amended to read as follows:*

10       *“JUDICIAL REVIEW OF ORDERS OF DEPORTATION,*  
 11               *EXCLUSION, AND SPECIAL EXCLUSION*

12       *“SEC. 106. (a) APPLICABLE PROVISIONS.—Except as*  
 13 *provided in subsection (b), judicial review of a final order*  
 14 *of exclusion or deportation is governed only by chapter 158*  
 15 *of title 28 of the United States Code, but in no such review*  
 16 *may a court order the taking of additional evidence pursu-*  
 17 *ant to section 2347(c) of title 28, United States Code.*

18       *“(b) REQUIREMENTS.—(1)(A) A petition for judicial*  
 19 *review must be filed not later than 30 days after the date*  
 20 *of the final order of exclusion or deportation, except that*  
 21 *in the case of any specially deportable criminal alien (as*  
 22 *defined in section 242(k)), there shall be no judicial review*  
 23 *of any final order of deportation.*

24       *“(B) The alien shall serve and file a brief in connection*  
 25 *with a petition for judicial review not later than 40 days*

1 *after the date on which the administrative record is avail-*  
2 *able, and may serve and file a reply brief not later than*  
3 *14 days after service of the brief of the Attorney General,*  
4 *and the court may not extend these deadlines except upon*  
5 *motion for good cause shown. Judicial review of all ques-*  
6 *tions of law and fact, including interpretation and applica-*  
7 *tion of constitutional and statutory provisions, arising*  
8 *from any action taken or proceeding brought to exclude or*  
9 *deport an alien from the United States under title II of*  
10 *this Act shall be available only in the judicial review of*  
11 *a final order of exclusion or deportation under this section.*  
12 *If a petition filed under this section raises a Constitutional*  
13 *issue that the court of appeals finds presents a genuine issue*  
14 *of material fact that cannot be resolved on the basis of the*  
15 *administrative record, the court shall transfer the proceed-*  
16 *ing to the district court of the United States for the judicial*  
17 *district in which the petitioner resides or is detained for*  
18 *a new hearing on the Constitutional claim as if the proceed-*  
19 *ings were originally initiated in district court. The proce-*  
20 *dure in these cases in the district court is governed by the*  
21 *Federal Rules of Civil Procedure.*

22       “(C) *If an alien fails to file a brief in connection with*  
23 *a petition for judicial review within the time provided in*  
24 *this paragraph, the Attorney General may move to dismiss*

1 *the appeal, and the court shall grant such motion unless*  
2 *a manifest injustice would result.*

3       “(2) *A petition for judicial review shall be filed with*  
4 *the court of appeals for the judicial circuit in which the*  
5 *special inquiry officer completed the proceedings.*

6       “(3) *The respondent of a petition for judicial review*  
7 *shall be the Attorney General. The petition shall be served*  
8 *on the Attorney General and on the officer or employee of*  
9 *the Immigration and Naturalization Service in charge of*  
10 *the Service district in which the final order of exclusion*  
11 *or deportation was entered. Service of the petition on the*  
12 *officer or employee does not stay the deportation of an alien*  
13 *pending the court’s decision on the petition, unless the court*  
14 *orders otherwise.*

15       “(4)(A) *Except as provided in paragraph (5)(B), the*  
16 *court of appeals shall decide the petition only on the admin-*  
17 *istrative record on which the order of exclusion or deporta-*  
18 *tion is based and the Attorney General’s findings of fact*  
19 *shall be conclusive unless a reasonable adjudicator would*  
20 *be compelled to conclude to the contrary.*

21       “(B) *The Attorney General’s discretionary judgment*  
22 *whether to grant relief under section 212 (c) or (i), 244*  
23 *(a) or (d), or 245 shall be conclusive and shall not be subject*  
24 *to review.*

1       “(C) *The Attorney General’s discretionary judgment*  
2 *whether to grant relief under section 208(a) shall be conclu-*  
3 *sive unless manifestly contrary to law and an abuse of dis-*  
4 *cretion.*

5       “(5)(A) *If the petitioner claims to be a national of the*  
6 *United States and the court of appeals finds from the plead-*  
7 *ings and affidavits that no genuine issue of material fact*  
8 *about the petitioner’s nationality is presented, the court*  
9 *shall decide the nationality claim.*

10       “(B) *If the petitioner claims to be a national of the*  
11 *United States and the court of appeals finds that a genuine*  
12 *issue of material fact about the petitioner’s nationality is*  
13 *presented, the court shall transfer the proceeding to the dis-*  
14 *trict court of the United States for the judicial district in*  
15 *which the petitioner resides for a new hearing on the na-*  
16 *tionality claim and a decision on that claim as if an action*  
17 *had been brought in the district court under section 2201*  
18 *of title 28, United States Code.*

19       “(C) *The petitioner may have the nationality claim*  
20 *decided only as provided in this section.*

21       “(6)(A) *If the validity of an order of deportation has*  
22 *not been judicially decided, a defendant in a criminal pro-*  
23 *ceeding charged with violating subsection (d) or (e) of sec-*  
24 *tion 242 may challenge the validity of the order in the*  
25 *criminal proceeding only by filing a separate motion before*

1 trial. The district court, without a jury, shall decide the  
2 motion before trial.

3 “(B) If the defendant claims in the motion to be a na-  
4 tional of the United States and the district court finds that  
5 no genuine issue of material fact about the defendant’s na-  
6 tionality is presented, the court shall decide the motion only  
7 on the administrative record on which the deportation order  
8 is based. The administrative findings of fact are conclusive  
9 if supported by reasonable, substantial, and probative evi-  
10 dence on the record considered as a whole.

11 “(C) If the defendant claims in the motion to be a na-  
12 tional of the United States and the district court finds that  
13 a genuine issue of material fact about the defendant’s na-  
14 tionality is presented, the court shall hold a new hearing  
15 on the nationality claim and decide that claim as if an  
16 action had been brought under section 2201 of title 28,  
17 United States Code.

18 “(D) If the district court rules that the deportation  
19 order is invalid, the court shall dismiss the indictment. The  
20 United States Government may appeal the dismissal to the  
21 court of appeals for the appropriate circuit within 30 days.  
22 The defendant may not file a petition for review under this  
23 section during the criminal proceeding. The defendant may  
24 have the nationality claim decided only as provided in this  
25 section.

1       “(7) *This subsection—*

2               “(A) *does not prevent the Attorney General, after*  
3       *a final order of deportation has been issued, from de-*  
4       *taining the alien under section 242(c);*

5               “(B) *does not relieve the alien from complying*  
6       *with subsection (d) or (e) of section 242; and*

7               “(C) *except as provided in paragraph (3), does*  
8       *not require the Attorney General to defer deportation*  
9       *of the alien.*

10       “(8) *The record and briefs do not have to be printed.*  
11       *The court of appeals shall review the proceeding on a type-*  
12       *written record and on typewritten briefs.*

13       “(c) *REQUIREMENTS FOR PETITION.—A petition for*  
14       *review of an order of exclusion or deportation shall state*  
15       *whether a court has upheld the validity of the order, and,*  
16       *if so, shall state the name of the court, the date of the court’s*  
17       *ruling, and the kind of proceeding.*

18       “(d) *REVIEW OF FINAL ORDERS.—*

19               “(1) *A court may review a final order of exclu-*  
20       *sion or deportation only if—*

21                       “(A) *the alien has exhausted all administra-*  
22                       *tive remedies available to the alien as a matter*  
23                       *of right; and*

24                       “(B) *another court has not decided the va-*  
25                       *lidity of the order, unless, subject to paragraph*

1           (2), the reviewing court finds that the petition  
2           presents grounds that could not have been pre-  
3           sented in the prior judicial proceeding or that  
4           the remedy provided by the prior proceeding was  
5           inadequate or ineffective to test the validity of  
6           the order.

7           “(2) Nothing in paragraph (1)(B) may be con-  
8           strued as creating a right of review if such review  
9           would be inconsistent with subsection (e), (f), or (g),  
10          or any other provision of this section.

11          “(e) *NO JUDICIAL REVIEW FOR ORDERS OF DEPORTA-*  
12          *TION OR EXCLUSION ENTERED AGAINST CERTAIN CRIMI-*  
13          *NAL ALIENS.*—Notwithstanding any other provision of law,  
14          any order of exclusion or deportation against an alien who  
15          is excludable or deportable by reason of having committed  
16          any criminal offense described in subparagraph (A)(iii),  
17          (B), (C), or (D) of section 241(a)(2), or two or more offenses  
18          described in section 241(a)(2)(A)(ii), at least two of which  
19          resulted in a sentence or confinement described in section  
20          241(a)(2)(A)(i)(II), is not subject to review by any court.

21          “(f) *NO COLLATERAL ATTACK.*—In any action brought  
22          for the assessment of penalties for improper entry or reentry  
23          of an alien under section 275 or 276, no court shall have  
24          jurisdiction to hear claims attacking the validity of orders

1 *of exclusion, special exclusion, or deportation entered under*  
 2 *section 235, 236, or 242.”.*

3 (b) *RESCISSION OF ORDER.*—Section 242B(c)(3) (8  
 4 U.S.C. 1252b(c)(3)) *is amended by striking the period at*  
 5 *the end and inserting “by the special inquiry officer, but*  
 6 *there shall be no stay pending further administrative or ju-*  
 7 *dicial review, unless ordered because of individually com-*  
 8 *elling circumstances.”.*

9 (c) *CLERICAL AMENDMENT.*—*The table of contents of*  
 10 *the Act is amended by amending the item relating to section*  
 11 *106 to read as follows:*

*“Sec. 106. Judicial review of orders of deportation, exclusion, and special exclu-*  
*sion.”.*

12 (d) *EFFECTIVE DATE.*—*The amendments made by*  
 13 *subsections (a) and (b) shall apply to all final orders of*  
 14 *exclusion or deportation entered, and motions to reopen*  
 15 *filed, on or after the date of the enactment of this Act.*

16 **SEC. 143. CIVIL PENALTIES AND VISA INELIGIBILITY, FOR**  
 17 **FAILURE TO DEPART.**

18 (a) *ALIENS SUBJECT TO AN ORDER OF EXCLUSION OR*  
 19 *DEPORTATION.*—*The Immigration and Nationality Act is*  
 20 *amended by inserting after section 274C (8 U.S.C. 1324c)*  
 21 *the following new section:*

22 “CIVIL PENALTIES FOR FAILURE TO DEPART

23 “SEC. 274D. (a) *Any alien subject to a final order of*  
 24 *exclusion and deportation or deportation who—*



1           “(1) willfully fails or refuses to—

2                   “(A) depart on time from the United States  
3           pursuant to the order;

4                   “(B) make timely application in good faith  
5           for travel or other documents necessary for de-  
6           parture; or

7                   “(C) present himself or herself for deporta-  
8           tion at the time and place required by the Attor-  
9           ney General; or

10           “(2) conspires to or takes any action designed to  
11       prevent or hamper the alien’s departure pursuant to  
12       the order,

13       shall pay a civil penalty of not more than \$500 to the Com-  
14       missioner for each day the alien is in violation of this sec-  
15       tion.

16           “(b) The Commissioner shall deposit amounts received  
17       under subsection (a) as offsetting collections in the appro-  
18       priate appropriations account of the Service.

19           “(c) Nothing in this section shall be construed to di-  
20       minish or qualify any penalties to which an alien may be  
21       subject for activities proscribed by section 242(e) or any  
22       other section of this Act.”.

23           (b) *VISA OVERSTAYER*.—*The Immigration and Na-*  
24       *tionality Act is amended in section 212 (8 U.S.C. 1182)*  
25       *by inserting the following new subsection:*

1       “(p)(1) *Any lawfully admitted nonimmigrant who re-*  
2 *mains in the United States for more than 60 days beyond*  
3 *the period authorized by the Attorney General shall be ineli-*  
4 *gible for additional nonimmigrant or immigrant visas*  
5 *(other than visas available for spouses of United States citi-*  
6 *zens or aliens lawfully admitted for permanent residence)*  
7 *until the date that is—*

8               “(A) *3 years after the date the nonimmigrant de-*  
9 *parts the United States in the case of a non-*  
10 *immigrant not described in paragraph (2); or*

11              “(B) *5 years after the date the nonimmigrant de-*  
12 *parts the United States in the case of a non-*  
13 *immigrant who without reasonable cause fails or re-*  
14 *fuses to attend or remain in attendance at a proceed-*  
15 *ing to determine the nonimmigrant’s deportability.*

16       “(2)(A) *Paragraph (1) shall not apply to any lawfully*  
17 *admitted nonimmigrant who is described in paragraph*  
18 *(1)(A) and who demonstrates good cause for remaining in*  
19 *the United States for the entirety of the period (other than*  
20 *the first 60 days) during which the nonimmigrant re-*  
21 *mained in the United States without the authorization of*  
22 *the Attorney General.*

23       “(B) *A final order of deportation shall not be stayed*  
24 *on the basis of a claim of good cause made under this sub-*  
25 *section.*

1       “(3) *The Attorney General shall by regulation establish*  
 2 *procedures necessary to implement this section.*”.

3       (c) *EFFECTIVE DATE.*—Subsection (b) shall take effect  
 4 *on the date of implementation of the automated entry-exit*  
 5 *control system described in section 201, or on the date that*  
 6 *is 2 years after the date of enactment of this Act, whichever*  
 7 *is earlier.*

8       (d) *AMENDMENTS TO TABLE OF CONTENTS.*—The table  
 9 *of contents of the Act is amended by inserting after the item*  
 10 *relating to section 274C the following:*

“Sec. 274D. *Civil penalties for failure to depart.*”.

11 **SEC. 144. CONDUCT OF PROCEEDINGS BY ELECTRONIC**  
 12 **MEANS.**

13       Section 242(b) (8 U.S.C. 1252(b)) is amended by in-  
 14 *serting at the end the following new sentences: “Nothing in*  
 15 *this subsection precludes the Attorney General from author-*  
 16 *izing proceedings by video electronic media, by telephone,*  
 17 *or, where a requirement for the alien’s appearance is*  
 18 *waived or the alien’s absence is agreed to by the parties,*  
 19 *in the absence of the alien. Contested full evidentiary hear-*  
 20 *ings on the merits may be conducted by telephone only with*  
 21 *the consent of the alien.*”.

22 **SEC. 145. SUBPOENA AUTHORITY.**

23       (a) *EXCLUSION PROCEEDINGS.*—Section 236(a) (8  
 24 *U.S.C. 1226(a)) is amended in the first sentence by insert-*  
 25 *ing “issue subpoenas,” after “evidence,”.*

1       (b) *DEPORTATION PROCEEDINGS.*—Section 242(b) (8  
 2   U.S.C. 1252(b)) is amended in the first sentence by insert-  
 3   ing “issue subpoenas,” after “evidence,”.

4   **SEC. 146. LANGUAGE OF DEPORTATION NOTICE; RIGHT TO**  
 5                                   **COUNSEL.**

6       (a) *LANGUAGE OF NOTICE.*—Section 242B (8 U.S.C.  
 7   1252b) is amended in subsection (a)(3) by striking “under  
 8   this subsection” and all that follows through “(B)” and in-  
 9   serting “under this subsection”.

10      (b) *PRIVILEGE OF COUNSEL.*—(1) Section 242B(b)(1)  
 11   (8 U.S.C. 1252b(b)(1)) is amended by inserting before the  
 12   period at the end the following: “, except that a hearing  
 13   may be scheduled as early as 3 days after the service of  
 14   the order to show cause if the alien has been continued in  
 15   custody subject to section 242”.

16      (2) The parenthetical phrase in section 292 (8 U.S.C.  
 17   1362) is amended to read as follows: “(at no expense to the  
 18   Government or unreasonable delay to the proceedings)”.

19      (3) Section 242B(b) (8 U.S.C. 1252b(b)) is further  
 20   amended by inserting at the end the following new para-  
 21   graph:

22                   “(3) *RULE OF CONSTRUCTION.*—Nothing in this  
 23   subsection may be construed to prevent the Attorney  
 24   General from proceeding against an alien pursuant to  
 25   section 242 if the time period described in paragraph

1       (1) *has elapsed and the alien has failed to secure*  
 2       *counsel.”.*

3       **SEC. 147. ADDITION OF NONIMMIGRANT VISAS TO TYPES OF**  
 4                               **VISA DENIED FOR COUNTRIES REFUSING TO**  
 5                               **ACCEPT DEPORTED ALIENS.**

6       (a) *IN GENERAL.*—Section 243(g) (8 U.S.C. 1253(g))  
 7       *is amended to read as follows:*

8               “(g)(1) *If the Attorney General determines that any*  
 9       *country upon request denies or unduly delays acceptance*  
 10       *of the return of any alien who is a national, citizen, subject,*  
 11       *or resident thereof, the Attorney General shall notify the*  
 12       *Secretary of such fact, and thereafter, subject to paragraph*  
 13       *(2), neither the Secretary of State nor any consular officer*  
 14       *shall issue an immigrant or nonimmigrant visa to any na-*  
 15       *tional, citizen, subject, or resident of such country.*

16              “(2) *The Secretary of State may waive the application*  
 17       *of paragraph (1) if the Secretary determines that such a*  
 18       *waiver is necessary to comply with the terms of a treaty*  
 19       *or international agreement or is in the national interest*  
 20       *of the United States.”.*

21       (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
 22       *section (a) shall apply to countries for which the Secretary*  
 23       *of State gives instructions to United States consular officers*  
 24       *on or after the date of the enactment of this Act.*

1 **SEC. 148. AUTHORIZATION OF SPECIAL FUND FOR COSTS**  
2 **OF DEPORTATION.**

3 *In addition to any other funds otherwise available in*  
4 *any fiscal year for such purpose, there are authorized to*  
5 *be appropriated to the Immigration and Naturalization*  
6 *Service \$10,000,000 for use without fiscal year limitation*  
7 *for the purpose of—*

8 *(1) executing final orders of deportation pursu-*  
9 *ant to sections 242 and 242A of the Immigration and*  
10 *Nationality Act (8 U.S.C. 1252 and 1252a); and*

11 *(2) detaining aliens prior to the execution of*  
12 *final orders of deportation issued under such sections.*

13 **SEC. 149. PILOT PROGRAM TO INCREASE EFFICIENCY IN RE-**  
14 **MOVAL OF DETAINED ALIENS.**

15 *(a) AUTHORITY.—The Attorney General shall conduct*  
16 *one or more pilot programs to study methods for increasing*  
17 *the efficiency of deportation and exclusion proceedings*  
18 *against detained aliens by increasing the availability of pro*  
19 *bono counseling and representation for such aliens. Any*  
20 *such pilot program may provide for administrative grants*  
21 *to not-for-profit organizations involved in the counseling*  
22 *and representation of aliens in immigration proceedings.*  
23 *An evaluation component shall be included in any such*  
24 *pilot program to test the efficiency and cost-effectiveness of*  
25 *the services provided and the replicability of such programs*  
26 *at other locations.*

1       (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
 2 *authorized to be appropriated to the Department of Justice*  
 3 *such sums as may be necessary to carry out the program*  
 4 *or programs described in subsection (a).*

5       (c) *STATUTORY CONSTRUCTION.*—*Nothing in this sec-*  
 6 *tion may be construed as creating a right for any alien*  
 7 *to be represented in any exclusion or deportation proceeding*  
 8 *at the expense of the Government.*

9       **SEC. 150. LIMITATIONS ON RELIEF FROM EXCLUSION AND**  
 10                                   **DEPORTATION.**

11       (a) *LIMITATION.*—*Section 212(c) (8 U.S.C. 1182(c)) is*  
 12 *amended to read as follows:*

13       “(c)(1) *Subject to paragraphs (2) through (5), an alien*  
 14 *who is and has been lawfully admitted for permanent resi-*  
 15 *dence for at least 5 years, who has resided in the United*  
 16 *States continuously for 7 years after having been lawfully*  
 17 *admitted, and who is returning to such residence after hav-*  
 18 *ing temporarily proceeded abroad voluntarily and not*  
 19 *under an order of deportation, may be admitted in the dis-*  
 20 *cretion of the Attorney General without regard to the provi-*  
 21 *sions of subsection (a) (other than paragraphs (3) and*  
 22 *(9)(C)).*

23       “(2) *For purposes of this subsection, any period of con-*  
 24 *tinuous residence shall be deemed to end when the alien is*

1 *placed in proceedings to exclude or deport the alien from*  
 2 *the United States.*

3 “(3) *Nothing contained in this subsection shall limit*  
 4 *the authority of the Attorney General to exercise the discre-*  
 5 *tion authorized under section 211(b).*

6 “(4) *Paragraph (1) shall not apply to an alien who*  
 7 *has been convicted of one or more aggravated felonies and*  
 8 *has been sentenced for such felony or felonies to a term or*  
 9 *terms of imprisonment totalling, in the aggregate, at least*  
 10 *5 years.*

11 “(5) *This subsection shall apply only to an alien in*  
 12 *proceedings under section 236.”.*

13 (b) *CANCELLATION OF DEPORTATION.—Section 244 (8*  
 14 *U.S.C. 1254) is amended to read as follows:*

15 “*CANCELLATION OF DEPORTATION; ADJUSTMENT OF*  
 16 *STATUS; VOLUNTARY DEPARTURE*

17 “*SEC. 244. (a) CANCELLATION OF DEPORTATION.—(1)*  
 18 *The Attorney General may, in the Attorney General’s dis-*  
 19 *cretion, cancel deportation in the case of an alien who is*  
 20 *deportable from the United States and—*

21 “(A) *is, and has been for at least 5 years, a law-*  
 22 *ful permanent resident; has resided in the United*  
 23 *States continuously for not less than 7 years after*  
 24 *being lawfully admitted; and has not been convicted*  
 25 *of an aggravated felony or felonies for which the alien*



1       *has been sentenced to a term or terms of imprison-*  
2       *ment totaling, in the aggregate, at least 5 years;*

3               *“(B) has been physically present in the United*  
4       *States for a continuous period of not less than 7 years*  
5       *since entering the United States; has been a person of*  
6       *good moral character during such period; and estab-*  
7       *lishes that deportation would result in extreme hard-*  
8       *ship to the alien or the alien’s spouse, parent, or*  
9       *child, who is a citizen or national of the United*  
10       *States or an alien lawfully admitted for permanent*  
11       *residence;*

12               *“(C) has been physically present in the United*  
13       *States for a continuous period of not less than three*  
14       *years since entering the United States; has been bat-*  
15       *tered or subjected to extreme cruelty in the United*  
16       *States by a spouse or parent who is a United States*  
17       *citizen or lawful permanent resident (or is the parent*  
18       *of a child who is a United States citizen or lawful*  
19       *permanent resident and the child has been battered or*  
20       *subjected to extreme cruelty in the United States by*  
21       *such citizen or permanent resident parent); has been*  
22       *a person of good moral character during all of such*  
23       *period in the United States; and establishes that de-*  
24       *portation would result in extreme hardship to the*  
25       *alien or the alien’s parent or child; or*

1           “(D) is deportable under paragraph (2) (A), (B),  
2           or (D), or paragraph (3) of section 241(a); has been  
3           physically present in the United States for a continu-  
4           ous period of not less than 10 years immediately fol-  
5           lowing the commission of an act, or the assumption  
6           of a status, constituting a ground for deportation,  
7           and proves that during all of such period he has been  
8           a person of good moral character; and is a person  
9           whose deportation would, in the opinion of the Attor-  
10          ney General, result in exceptional and extremely un-  
11          usual hardship to the alien or to his spouse, parent,  
12          or child, who is a citizen of the United States or an  
13          alien lawfully admitted for permanent residence.

14          “(2)(A) For purposes of paragraph (1), any period of  
15          continuous residence or continuous physical presence in the  
16          United States shall be deemed to end when the alien is  
17          served an order to show cause pursuant to section 242 or  
18          242B.

19          “(B) An alien shall be considered to have failed to  
20          maintain continuous physical presence in the United States  
21          under paragraph (1) (B), (C), or (D) if the alien was absent  
22          from the United States for any single period of more than  
23          90 days or an aggregate period of more than 180 days.

1       “(C) A person who is deportable under section  
2 241(a)(2)(C) or 241(a)(4) shall not be eligible for relief  
3 under this section.

4       “(D) A person who is deportable under section  
5 241(a)(2) (A), (B), or (D) or section 241(a)(3) shall not  
6 be eligible for relief under paragraph (1) (B), or (D).

7       “(E) A person who has been convicted of an aggravated  
8 felony shall not be eligible for relief under paragraph (1)  
9 (B), or (C), (D).

10       “(F) A person who is deportable under section  
11 241(a)(1)(G) shall not be eligible for relief under paragraph  
12 (1)(C).

13       “(b) *CONTINUOUS PHYSICAL PRESENCE NOT RE-*  
14 *QUIRED BECAUSE OF HONORABLE SERVICE IN ARMED*  
15 *FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—The*  
16 *requirements of continuous residence or continuous physical*  
17 *presence in the United States specified in subsection (a)(1)*  
18 *(A) and (B) shall not be applicable to an alien who—*

19               “(1) *has served for a minimum period of 24*  
20 *months in an active-duty status in the Armed Forces*  
21 *of the United States and, if separated from such serv-*  
22 *ice, was separated under honorable conditions, and*

23               “(2) *at the time of his or her enlistment or in-*  
24 *duction, was in the United States.*

1       “(c) *ADJUSTMENT OF STATUS.*—*The Attorney General*  
 2   *may cancel deportation and adjust to the status of an alien*  
 3   *lawfully admitted for permanent residence any alien who*  
 4   *the Attorney General determines meets the requirements of*  
 5   *subsection (a)(1) (B), (C), or (D). The Attorney General*  
 6   *shall record the alien’s lawful admission for permanent res-*  
 7   *idence as of the date the Attorney General decides to cancel*  
 8   *such alien’s removal.*

9       “(d) *ALIEN CREWMEN; NONIMMIGRANT EXCHANGE*  
 10   *ALIENS ADMITTED TO RECEIVE GRADUATE MEDICAL EDU-*  
 11   *CATION OR TRAINING; OTHER.*—*The provisions of sub-*  
 12   *section (a) shall not apply to an alien who—*

13               “(1) *entered the United States as a crewman*  
 14       *after June 30, 1964;*

15               “(2) *was admitted to the United States as a non-*  
 16       *immigrant alien described in section 101(a)(15)(J),*  
 17       *or has acquired the status of such a nonimmigrant*  
 18       *alien after admission, in order to receive graduate*  
 19       *medical education or training, without regard to*  
 20       *whether or not the alien is subject to or has fulfilled*  
 21       *the two-year foreign residence requirement of section*  
 22       *212(e); or*

23               “(3)(A) *was admitted to the United States as a*  
 24       *nonimmigrant alien described in section*  
 25       *101(a)(15)(J), or has acquired the status of such a*

1       *nonimmigrant alien after admission, other than to re-*  
2       *ceive graduate medical education or training;*

3               *“(B) is subject to the two-year foreign residence*  
4       *requirement of section 212(e); and*

5               *“(C) has not fulfilled that requirement or re-*  
6       *ceived a waiver thereof, or, in the case of a foreign*  
7       *medical graduate who has received a waiver pursuant*  
8       *to section 220 of the Immigration and Nationality*  
9       *Technical Corrections Act of 1994 (Public Law 103–*  
10       *416), has not fulfilled the requirements of section*  
11       *214(k).*

12       *“(e) VOLUNTARY DEPARTURE.—(1)(A) The Attorney*  
13       *General may permit an alien voluntarily to depart the*  
14       *United States at the alien’s own expense—*

15               *“(i) in lieu of being subject to deportation pro-*  
16       *ceedings under section 242 or prior to the completion*  
17       *of such proceedings, if the alien is not a person de-*  
18       *portable under section 241(a)(2)(A)(iii) or section*  
19       *241(a)(4); or*

20               *“(ii) after the completion of deportation proceed-*  
21       *ings under section 242, only if a special inquiry offi-*  
22       *cer determines that—*

23               *“(I) the alien is, and has been for at least*  
24       *5 years immediately preceding the alien’s appli-*

1           *cation for voluntary departure, a person of good*  
2           *moral character;*

3           *“(II) the alien is not deportable under sec-*  
4           *tion 241(a)(2)(A)(iii) or section 241(a)(4); and*

5           *“(III) the alien establishes by clear and con-*  
6           *vincing evidence that the alien has the means to*  
7           *depart the United States and intends to do so.*

8           *“(B)(i) In the case of departure pursuant to subpara-*  
9           *graph (A)(i), the Attorney General may require the alien*  
10          *to post a voluntary departure bond, to be surrendered upon*  
11          *proof that the alien has departed the United States within*  
12          *the time specified.*

13          *“(ii) If any alien who is authorized to depart volun-*  
14          *tarily under this paragraph is financially unable to depart*  
15          *at the alien’s own expense and the Attorney General deems*  
16          *the alien’s removal to be in the best interest of the United*  
17          *States, the expense of such removal may be paid from the*  
18          *appropriation for enforcement of this Act.*

19          *“(C) In the case of departure pursuant to subpara-*  
20          *graph (A)(ii), the alien shall be required to post a voluntary*  
21          *departure bond, in an amount necessary to ensure that the*  
22          *alien will depart, to be surrendered upon proof that the*  
23          *alien has departed the United States within the time speci-*  
24          *fied.*

1       “(2) *If the alien fails voluntarily to depart the United*  
 2 *States within the time period specified in accordance with*  
 3 *paragraph (1), the alien shall be subject to a civil penalty*  
 4 *of not more than \$500 per day and shall be ineligible for*  
 5 *any further relief under this subsection or subsection (a).*

6       “(3)(A) *The Attorney General may by regulation limit*  
 7 *eligibility for voluntary departure for any class or classes*  
 8 *of aliens.*

9       “(B) *No court may review any regulation issued under*  
 10 *subparagraph (A).*

11       “(4) *No court shall have jurisdiction over an appeal*  
 12 *from denial of a request for an order of voluntary departure*  
 13 *under paragraph (1), nor shall any court order a stay of*  
 14 *an alien’s removal pending consideration of any claim with*  
 15 *respect to voluntary departure.”.*

16       (c) *CONFORMING AMENDMENTS.—(1) Section 242(b)*  
 17 *(8 U.S.C. 1252(b)) is amended by striking the last two sen-*  
 18 *tences.*

19       (2) *Section 242B (8 U.S.C. 1252b) is amended—*

20               (A) *in subsection (e)(2), by striking “section*  
 21 *244(e)(1)” and inserting “section 244(e)”;* and

22               (B) *in subsection (e)(5)—*

23                       (i) *by striking “suspension of deportation”*  
 24                       *and inserting “cancellation of deportation”;* and

25                       (ii) *by inserting “244,” before “245”.*

1       (d) *AMENDMENT TO THE TABLE OF CONTENTS.*—The  
2   *table of contents of the Act is amended by amending the*  
3   *item relating to section 244 to read as follows:*

      “Sec. 244. *Cancellation of deportation; adjustment of status; voluntary departure.*”.

4       (e) *EFFECTIVE DATES.*—(1) *The amendments made by*  
5   *subsection (a) shall take effect on the date of the enactment*  
6   *of this Act, and shall apply to all applications for relief*  
7   *under section 212(c) of the Immigration and Nationality*  
8   *Act (8 U.S.C. 1182(c)), except that, for purposes of deter-*  
9   *mining the period of continuous residence, the amendments*  
10   *made by subsection (a) shall apply to all aliens against*  
11   *whom proceedings are commenced on or after the date of*  
12   *the enactment of this Act.*

13       (2) *The amendments made by subsection (b) shall take*  
14   *effect on the date of the enactment of this Act, and shall*  
15   *apply to all applications for relief under section 244 of the*  
16   *Immigration and Nationality Act (8 U.S.C. 1254), except*  
17   *that, for purposes of determining the periods of continuous*  
18   *residence or continuous physical presence, the amendments*  
19   *made by subsection (b) shall apply to all aliens upon whom*  
20   *an order to show cause is served on or after the date of*  
21   *the enactment of this Act.*

22       (3) *The amendments made by subsection (c) shall take*  
23   *effect on the date of the enactment of this Act.*



1 **SEC. 151. ALIEN STOWAWAYS.**

2 (a) *DEFINITION.*—Section 101(a) (8 U.S.C. 1101) is  
3 amended by adding the following new paragraph:

4 “(47) The term ‘stowaway’ means any alien who ob-  
5 tains transportation without the consent of the owner,  
6 charterer, master, or person in command of any vessel or  
7 aircraft through concealment aboard such vessel or aircraft.  
8 A passenger who boards with a valid ticket is not to be  
9 considered a stowaway.”.

10 (b) *EXCLUDABILITY.*—Section 237 (8 U.S.C. 1227) is  
11 amended—

12 (1) in subsection (a)(1), before the period at the  
13 end of the first sentence, by inserting the following: “,  
14 or unless the alien is an excluded stowaway who has  
15 applied for asylum or withholding of deportation and  
16 whose application has not been adjudicated or whose  
17 application has been denied but who has not ex-  
18 hausted every appeal right”; and

19 (2) by inserting after the first sentence in sub-  
20 section (a)(1) the following new sentences: “Any alien  
21 stowaway inspected upon arrival in the United States  
22 is an alien who is excluded within the meaning of  
23 this section. For purposes of this section, the term  
24 ‘alien’ includes an excluded stowaway. The provisions  
25 of this section concerning the deportation of an ex-

1        *cluded alien shall apply to the deportation of a stow-*  
2        *away under section 273(d).”.*

3        *(c) CARRIER LIABILITY FOR COSTS OF DETENTION.—*  
4        *Section 273(d) (8 U.S.C. 1323(d)) is amended to read as*  
5        *follows:*

6            *“(d)(1) It shall be the duty of the owner, charterer,*  
7        *agent, consignee, commanding officer, or master of any ves-*  
8        *sel or aircraft arriving at the United States from any place*  
9        *outside the United States to detain on board or at such*  
10       *other place as may be designated by an immigration officer*  
11       *any alien stowaway until such stowaway has been inspected*  
12       *by an immigration officer.*

13           *“(2) Upon inspection of an alien stowaway by an im-*  
14       *migration officer, the Attorney General may by regulation*  
15       *take immediate custody of any stowaway and shall charge*  
16       *the owner, charterer, agent, consignee, commanding officer,*  
17       *or master of the vessel or aircraft on which the stowaway*  
18       *has arrived the costs of detaining the stowaway.*

19           *“(3) It shall be the duty of the owner, charterer, agent,*  
20       *consignee, commanding officer, or master of any vessel or*  
21       *aircraft arriving at the United States from any place out-*  
22       *side the United States to deport any alien stowaway on*  
23       *the vessel or aircraft on which such stowaway arrived or*  
24       *on another vessel or aircraft at the expense of the vessel or*

1 aircraft on which such stowaway arrived when required to  
2 do so by an immigration officer.

3       “(4) Any person who fails to comply with paragraph  
4 (1) or (3), shall be subject to a fine of \$5,000 for each alien  
5 for each failure to comply, payable to the Commissioner.  
6 The Commissioner shall deposit amounts received under  
7 this paragraph as offsetting collections to the applicable ap-  
8 propriations account of the Service. Pending final deter-  
9 mination of liability for such fine, no such vessel or aircraft  
10 shall be granted clearance, except that clearance may be  
11 granted upon the deposit of a sum sufficient to cover such  
12 fine, or of a bond with sufficient surety to secure the pay-  
13 ment thereof approved by the Commissioner.

14       “(5) An alien stowaway inspected upon arrival shall  
15 be considered an excluded alien under this Act.

16       “(6) The provisions of section 235 for detention of  
17 aliens for examination before a special inquiry officer and  
18 the right of appeal provided for in section 236 shall not  
19 apply to aliens who arrive as stowaways, and no such  
20 aliens shall be permitted to land in the United States, ex-  
21 cept temporarily for medical treatment, or pursuant to such  
22 regulations as the Attorney General may prescribe for the  
23 departure, removal, or deportation of such alien from the  
24 United States.

1       “(7) *A stowaway may apply for asylum under section*  
2 *208 or withholding of deportation under section 243(h),*  
3 *pursuant to such regulations as the Attorney General may*  
4 *establish.*”.

5       **SEC. 152. PILOT PROGRAM ON INTERIOR REPATRIATION**  
6                       **AND OTHER METHODS TO DETER MULTIPLE**  
7                       **UNLAWFUL ENTRIES.**

8       (a) *ESTABLISHMENT.*—Not later than 180 days after  
9 *the date of the enactment of this Act, the Attorney General,*  
10 *after consultation with the Secretary of State, shall estab-*  
11 *lish a pilot program for up to two years which provides*  
12 *for methods to deter multiple unlawful entries by aliens into*  
13 *the United States. The pilot program may include the devel-*  
14 *opment and use of interior repatriation, third country re-*  
15 *patriation, and other disincentives for multiple unlawful*  
16 *entries into the United States.*

17       (b) *REPORT.*—Not later than 35 months after the date  
18 *of the enactment of this Act, the Attorney General, together*  
19 *with the Secretary of State, shall submit a report to the*  
20 *Committees on the Judiciary of the House of Representa-*  
21 *tives and of the Senate on the operation of the pilot pro-*  
22 *gram under this section and whether the pilot program or*  
23 *any part thereof should be extended or made permanent.*

1 **SEC. 153. PILOT PROGRAM ON USE OF CLOSED MILITARY**  
2 **BASES FOR THE DETENTION OF EXCLUDABLE**  
3 **OR DEPORTABLE ALIENS.**

4 (a) *ESTABLISHMENT.*—*The Attorney General and the*  
5 *Secretary of Defense shall jointly establish a pilot program*  
6 *for up to two years to determine the feasibility of the use*  
7 *of military bases available through the defense base realign-*  
8 *ment and closure process as detention centers for the Immi-*  
9 *gration and Naturalization Service.*

10 (b) *REPORT.*—*Not later than 35 months after the date*  
11 *of the enactment of this Act, the Attorney General, together*  
12 *with the Secretary of State, shall submit a report to the*  
13 *Committees on the Judiciary of the House of Representa-*  
14 *tives and of the Senate, the Committee on National Security*  
15 *of the House of Representatives, and the Committee on*  
16 *Armed Services of the Senate, on the feasibility of using*  
17 *military bases closed through the defense base realignment*  
18 *and closure process as detention centers by the Immigration*  
19 *and Naturalization Service.*

20 **SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.**

21 *Section 234 (8 U.S.C. 1224) is amended to read as*  
22 *follows:*

23 “*PHYSICAL AND MENTAL EXAMINATIONS*

24 “*SEC. 234. (a) ALIENS COVERED.*—*Each alien within*  
25 *any of the following classes of aliens who is seeking entry*

1 *into the United States shall undergo a physical and mental*  
2 *examination in accordance with this section:*

3           “(1) *Aliens applying for visas for admission to*  
4 *the United States for permanent residence.*

5           “(2) *Aliens seeking admission to the United*  
6 *States for permanent residence for whom examina-*  
7 *tions were not made under paragraph (1).*

8           “(3) *Aliens within the United States seeking ad-*  
9 *justment of status under section 245 to that of aliens*  
10 *lawfully admitted to the United States for permanent*  
11 *residence.*

12           “(4) *Alien crewmen entering or in transit across*  
13 *the United States.*

14           “(b) *DESCRIPTION OF EXAMINATION.—(1) Each exam-*  
15 *ination required by subsection (a) shall include—*

16           “(A) *an examination of the alien for any phys-*  
17 *ical or mental defect or disease and a certification of*  
18 *medical findings made in accordance with subsection*  
19 *(d); and*

20           “(B) *an assessment of the vaccination record of*  
21 *the alien in accordance with subsection (e).*

22           “(2) *The Secretary of Health and Human Services*  
23 *shall prescribe such regulations as may be necessary to*  
24 *carry out the medical examinations required by subsection*  
25 *(a).*

1       “(c) *MEDICAL EXAMINERS.*—

2               “(1) *MEDICAL OFFICERS.*—(A) *Except as pro-*  
3 *vided in paragraphs (2) and (3), examinations under*  
4 *this section shall be conducted by medical officers of*  
5 *the United States Public Health Services.*

6               “(B) *Medical officers of the United States Public*  
7 *Health Service who have had specialized training in*  
8 *the diagnosis of insanity and mental defects shall be*  
9 *detailed for duty or employed at such ports of entry*  
10 *as the Secretary may designate, in consultation with*  
11 *the Attorney General.*

12              “(2) *CIVIL SURGEONS.*—(A) *Whenever medical*  
13 *officers of the United States Public Health Service are*  
14 *not available to perform examinations under this sec-*  
15 *tion, the Attorney General, in consultation with the*  
16 *Secretary, shall designate civil surgeons to perform*  
17 *the examinations.*

18              “(B) *Each civil surgeon designated under sub-*  
19 *paragraph (A) shall—*

20                      “(i) *have at least 4 years of professional ex-*  
21 *perience unless the Secretary determines that*  
22 *special or extenuating circumstances justify the*  
23 *designation of an individual having a lesser*  
24 *amount of professional experience; and*

1                   “(ii) satisfy such other eligibility require-  
2                   ments as the Secretary may prescribe.

3                   “(3) *PANEL PHYSICIANS.*—In the case of exami-  
4                   nations under this section abroad, the medical exam-  
5                   iner shall be a panel physician designated by the Sec-  
6                   retary of State, in consultation with the Secretary.

7                   “(d) *CERTIFICATION OF MEDICAL FINDINGS.*—The  
8                   medical examiners shall certify for the information of im-  
9                   migration officers and special inquiry officers, or consular  
10                  officers, as the case may be, any physical or mental defect  
11                  or disease observed by such examiners in any such alien.

12                  “(e) *VACCINATION ASSESSMENT.*—(1) The assessment  
13                  referred to in subsection (b)(1)(B) is an assessment of the  
14                  alien’s record of required vaccines for preventable diseases,  
15                  including mumps, measles, rubella, polio, tetanus, diphthe-  
16                  ria toxoids, pertussis, hemophilus-influenza type B, hepa-  
17                  titis type B, as well as any other diseases specified as vac-  
18                  cine-preventable by the Advisory Committee on Immuniza-  
19                  tion Practices.

20                  “(2) Medical examiners shall educate aliens on the im-  
21                  portance of immunizations and shall create an immuniza-  
22                  tion record for the alien at the time of examination.

23                  “(3)(A) Each alien who has not been vaccinated  
24                  against measles, and each alien under the age of 5 years  
25                  who has not been vaccinated against polio, must receive



1 *such vaccination, unless waived by the Secretary, and must*  
2 *receive any other vaccination determined necessary by the*  
3 *Secretary prior to arrival in the United States.*

4 “(B) *Aliens who have not received the entire series of*  
5 *vaccinations prescribed in paragraph (1) (other than mea-*  
6 *sles) shall return to a designated civil surgeon within 30*  
7 *days of arrival in the United States, or within 30 days*  
8 *of adjustment of status, for the remainder of the vaccina-*  
9 *tions.*

10 “(f) *APPEAL OF MEDICAL EXAMINATION FINDINGS.—*  
11 *Any alien determined to have a health-related grounds of*  
12 *exclusion under paragraph (1) of section 212(a) may ap-*  
13 *peal that determination to a board of medical officers of*  
14 *the Public Health Service, which shall be convened by the*  
15 *Secretary. The alien may introduce at least one expert med-*  
16 *ical witness before the board at his or her own cost and*  
17 *expense.*

18 “(g) *FUNDING.—(1)(A) The Attorney General shall*  
19 *impose a fee upon any person applying for adjustment of*  
20 *status to that of an alien lawfully admitted to permanent*  
21 *residence under section 209, 210, 245, or 245A, and the Sec-*  
22 *retary of State shall impose a fee upon any person applying*  
23 *for a visa at a United States consulate abroad who is re-*  
24 *quired to have a medical examination in accordance with*  
25 *subsection (a).*

1       “(B) *The amounts of the fees required by subparagraph*  
2 *(A) shall be established by the Secretary, in consultation*  
3 *with the Attorney General and the Secretary of State, as*  
4 *the case may be, and shall be set at such amounts as may*  
5 *be necessary to recover the full costs of establishing and ad-*  
6 *ministering the civil surgeon and panel physician pro-*  
7 *grams, including the costs to the Service, the Department*  
8 *of State, and the Department of Health and Human Serv-*  
9 *ices for any additional expenditures associated with the ad-*  
10 *ministration of the fees collected.*

11       “(2)(A) *The fees imposed under paragraph (1) may*  
12 *be collected as separate fees or as surcharges to any other*  
13 *fees that may be collected in connection with an application*  
14 *for adjustment of status under section 209, 210, 245, or*  
15 *245A, for a visa, or for a waiver of excludability under*  
16 *paragraph (1) or (2) of section 212(g), as the case may be.*

17       “(B) *The provisions of the Act of August 18, 1856 (Re-*  
18 *vised Statutes 1726–28, 22 U.S.C. 4212–14), concerning ac-*  
19 *counting for consular fees, shall not apply to fees collected*  
20 *by the Secretary of State under this section.*

21       “(3)(A) *There is established on the books of the Treas-*  
22 *ury of the United States a separate account which shall*  
23 *be known as the ‘Medical Examinations Fee Account’.*

1       “(B) *There shall be deposited as offsetting receipts into*  
 2 *the Medical Examinations Fee Account all fees collected*  
 3 *under paragraph (1), to remain available until expended.*

4       “(C) *Amounts in the Medical Examinations Fee Ac-*  
 5 *count shall be available only to reimburse any appropria-*  
 6 *tion currently available for the programs established by this*  
 7 *section.*

8       “(h) *DEFINITIONS.—As used in this section—*

9               “(1) *the term ‘medical examiner’ refers to a med-*  
 10 *ical officer, civil surgeon, or panel physician, as de-*  
 11 *scribed in subsection (c); and*

12              “(2) *the term ‘Secretary’ means the Secretary of*  
 13 *Health and Human Services.”.*

14 **SEC. 155. CERTIFICATION REQUIREMENTS FOR FOREIGN**  
 15 **HEALTH-CARE WORKERS.**

16       (a) *IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a))*  
 17 *is amended—*

18              (1) *by redesignating paragraph (9) as para-*  
 19 *graph (10); and*

20              (2) *by inserting after paragraph (8) the follow-*  
 21 *ing new paragraph:*

22              “(9) **UNCERTIFIED FOREIGN HEALTH-CARE**  
 23 **WORKERS.—(A)** *Any alien who seeks to enter the*  
 24 *United States for the purpose of performing labor as*  
 25 *a health-care worker, other than a physician, is ex-*

1 *cludable unless the alien presents to the consular offi-*  
2 *cer, or, in the case of an adjustment of status, the At-*  
3 *torney General, a certificate from the Commission on*  
4 *Graduates of Foreign Nursing Schools, or a certificate*  
5 *from an equivalent independent credentialing organi-*  
6 *zation approved by the Attorney General in consulta-*  
7 *tion with the Secretary of Health and Human Serv-*  
8 *ices, verifying that—*

9 *“(i) the alien’s education, training, license,*  
10 *and experience—*

11 *“(I) meet all applicable statutory and*  
12 *regulatory requirements for entry into the*  
13 *United States under the classification speci-*  
14 *fied in the application;*

15 *“(II) are comparable with that re-*  
16 *quired for an American health-care worker*  
17 *of the same type; and*

18 *“(III) are authentic and, in the case of*  
19 *a license, unencumbered;*

20 *“(ii) the alien has the level of competence in*  
21 *oral and written English considered by the Sec-*  
22 *retary of Health and Human Services, in con-*  
23 *sultation with the Secretary of Education, to be*  
24 *appropriate for health care work of the kind in*  
25 *which the alien will be engaged, as shown by an*

appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

“(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing and certification examination, the alien has passed such a test.

“(B) For purposes of subparagraph (A)(ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 101(f)(3) is amended by striking “(9)(A) of section 212(a)” and inserting “(10)(A) of section 212(a)”.

(2) Section 212(c) is amended by striking “(9)(C)” and inserting “(10)(C)”.

**SEC. 156. INCREASED BAR TO REENTRY FOR ALIENS PREVIOUSLY REMOVED.**

(a) IN GENERAL.—Section 212(a)(6) (8 U.S.C. 1182(a)(6)) is amended—

1           (1) in subparagraph (A)—

2                   (A) by striking “one year” and inserting  
3           “five years”; and

4                   (B) by inserting “, or within 20 years of the  
5           date of any second or subsequent deportation,”  
6           after “deportation”;

7           (2) in subparagraph (B)—

8                   (A) by redesignating clauses (ii), (iii), and  
9           (iv) as clauses (iii), (iv), and (v), respectively;

10                  (B) by inserting after clause (i) the follow-  
11           ing new clause;

12                   “(ii) has departed the United States  
13           while an order of deportation is outstand-  
14           ing,”;

15                  (C) by striking “or” after “removal,”; and

16                  (D) by inserting “or (c) who seeks admis-  
17           sion within 20 years of a second or subsequent  
18           deportation or removal,” after “felony,”.

19           (b) *REENTRY OF DEPORTED ALIEN*.—Section  
20   276(a)(1) (8 U.S.C. 1326(a)(1)) is amended to read as fol-  
21   lows:

22                   “(1) has been arrested and deported, has been ex-  
23           cluded and deported, or has departed the United  
24           States while an order of exclusion or deportation is  
25           outstanding, and thereafter”.

1 **SEC. 157. ELIMINATION OF CONSULATE SHOPPING FOR**  
 2 **VISA OVERSTAYS.**

3 (a) *IN GENERAL.*—Section 222 (8 U.S.C. 1202) is  
 4 amended by adding at the end the following new subsection:

5 “(g)(1) *In the case of an alien who has entered and*  
 6 *remained in the United States beyond the authorized period*  
 7 *of stay, the alien’s nonimmigrant visa shall thereafter be*  
 8 *invalid for reentry into the United States.*

9 “(2) *An alien described in paragraph (1) shall be ineli-*  
 10 *gible to be readmitted to the United States as a non-*  
 11 *immigrant subsequent to the expiration of the alien’s au-*  
 12 *thorized period of stay, except—*

13 “(A) *on the basis of a visa issued in a consular*  
 14 *office located in the country of the alien’s nationality*  
 15 *(or, if there is no office in such country, in such other*  
 16 *consular office as the Secretary of State shall specify);*  
 17 *or*

18 “(B) *where extraordinary circumstances are*  
 19 *found by the Secretary of State to exist.”.*

20 (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 21 *section shall apply to visas issued before, on, or after the*  
 22 *date of the enactment of this Act.*

23 **SEC. 158. INCITEMENT AS A BASIS FOR EXCLUSION FROM**  
 24 **THE UNITED STATES.**

25 *Section 212(a)(3)(B) of the Immigration and Nation-*  
 26 *ality Act (8 U.S.C. 1182(a)(3)(B)), is amended—*

1           (1) *by striking “or” at the end of clause (i)(I);*

2           (2) *in clause (i)(II), by inserting “or” at the*  
 3 *end; and*

4           (3) *by inserting after clause (i)(II) the following*  
 5 *new subclause:*

6                               *“(III) has, under circumstances*  
 7                               *indicating an intention to cause death*  
 8                               *or serious bodily harm, incited terror-*  
 9                               *ism, engaged in targeted racial vili-*  
 10                              *fication, or advocated the overthrow of*  
 11                              *the United States Government or death*  
 12                              *or serious bodily harm to any United*  
 13                              *States citizen or United States Govern-*  
 14                              *ment official,”.*

15 **SEC. 159. CONFORMING AMENDMENT TO WITHHOLDING OF**  
 16 **DEPORTATION.**

17       *Section 243(h) (8 U.S.C. 1253(h)) is amended by add-*  
 18 *ing at the end the following new paragraph:*

19               *“(3) The Attorney General may refrain from de-*  
 20 *porting any alien if the Attorney General determines*  
 21 *that—*

22                              *“(A) such alien’s life or freedom would be*  
 23                              *threatened, in the country to which such alien*  
 24                              *would be deported or returned, on account of*



1           *race, religion, nationality, membership in a par-*  
 2           *ticular social group, or political opinion, and*

3           *“(B) deporting such alien would violate the*  
 4           *1967 United Nations Protocol relating to the*  
 5           *Status of Refugees.”.*

6           **PART 5—CRIMINAL ALIENS**

7   **SEC. 161. AMENDED DEFINITION OF AGGRAVATED FELONY.**

8           *(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C.*  
 9           *1101(a)(43)) is amended—*

10           *(1) in subparagraph (D), by striking “\$100,000”*  
 11           *and inserting “\$10,000”;*

12           *(2) in subparagraphs (F), (G), and (O), by strik-*  
 13           *ing “is at least 5 years” each place it appears and*  
 14           *inserting “at least one year”;*

15           *(3) in subparagraph (J)—*

16           *(A) by striking “sentence of 5 years’ impris-*  
 17           *onment” and inserting “sentence of one year im-*  
 18           *prisonment”; and*

19           *(B) by striking “offense described” and in-*  
 20           *serting “offense described in section 1084 of title*  
 21           *18 (if it is a second or subsequent offense), sec-*  
 22           *tion 1955 of such title (relating to gambling of-*  
 23           *fenses), or”;*

24           *(4) in subparagraph (K)—*

25           *(A) by striking “or” at the end of clause (i);*

1                   (B) by adding “or” at the end of clause (ii);

2                   and

3                   (C) by adding at the end the following new

4                   clause:

5                   “(iii) is described in section 2421,

6                   2422, or 2423 of title 18, United States

7                   Code (relating to transportation for the pur-

8                   pose of prostitution), if committed for com-

9                   mercial advantage.”;

10                  (5) in subparagraph (L)—

11                   (A) by striking “or” at the end of clause (i);

12                   (B) by inserting “or” at the end of clause

13                   (ii); and

14                   (C) by adding at the end the following new

15                   clause:

16                   “(iii) section 601 of the National Secu-

17                   rity Act of 1947 (relating to protecting the

18                   identity of undercover agents)”;

19                  (6) in subparagraph (M), by striking “\$200,000”

20                   each place it appears and inserting “\$10,000”;

21                  (7) in subparagraph (N)—

22                   (A) by striking “of title 18, United States

23                   Code”; and

24                   (B) by striking “for the purpose of commer-

25                   cial advantage” and inserting the following: “,

1       *except, for a first offense, if the alien has affirm-*  
2       *atively shown that the alien committed the of-*  
3       *fense for the purpose of assisting, abetting, or*  
4       *aiding only the alien's spouse, child, or parent*  
5       *(and no other individual) to violate a provision*  
6       *of this Act";*

7       (8) in subparagraph (O), by striking “*which*  
8       *constitutes*” and all that follows up to the semicolon  
9       at the end and inserting the following: “, *except, for*  
10      *a first offense, if the alien has affirmatively shown*  
11      *that the alien committed the offense for the purpose*  
12      *of assisting, abetting, or aiding only the alien's*  
13      *spouse, child, or parent (and no other individual) to*  
14      *violate a provision of this Act";*

15      (9) by redesignating subparagraphs (P) and (Q)  
16      as subparagraphs (R) and (S), respectively;

17      (10) by inserting after subparagraph (O) the fol-  
18      lowing new subparagraphs:

19               “(P) *any offense relating to commercial*  
20               *bribery, counterfeiting, forgery, or trafficking in*  
21               *vehicles whose identification numbers have been*  
22               *altered for which the term of imprisonment im-*  
23               *posed (regardless of any suspension of imprison-*  
24               *ment) is at least one year;*

1                   “(Q) any offense relating to perjury or sub-  
 2                   ornation of perjury for which the term of impris-  
 3                   onment imposed (regardless of any suspension of  
 4                   imprisonment) is at least one year;” and  
 5                   (11) in subparagraph (R) (as redesignated), by  
 6                   striking “15” and inserting “5”.

7           (b) *EFFECTIVE DATE OF DEFINITION.*—Section  
 8   101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding  
 9   at the end the following new sentence: “Notwithstanding  
 10 any other provision of law, the term applies regardless of  
 11 whether the conviction was entered before, on, or after the  
 12 date of enactment of this paragraph, except that, for pur-  
 13 poses of section 242(f)(2), the term has the same meaning  
 14 as was in effect under this paragraph on the date the offense  
 15 was committed.”.

16           (c) *APPLICATION TO WITHHOLDING OF DEPORTA-*  
 17 *TION.*—Section 243(h) (8 U.S.C. 1253(h)), as amended by  
 18 section 159 of this Act, is further amended in paragraph  
 19 (2) by striking the last sentence and inserting the following:  
 20 “For purposes of subparagraph (B), an alien shall be con-  
 21 sidered to have committed a particularly serious crime if  
 22 such alien has been convicted of one or more of the follow-  
 23 ing:

24                   “(1) An aggravated felony, or attempt or con-  
 25                   spiracy to commit an aggravated felony, for which the

1        *term of imprisonment imposed (regardless of any sus-*  
 2        *pension of imprisonment) is at least one year.*

3                *“(2) An offense described in subparagraph (A),*  
 4        *(B), (C), (E), (H), (I), (J), (L), or subparagraph*  
 5        *(K)(ii), of section 101(a)(43), or an attempt or con-*  
 6        *spiracy to commit an offense described in one or more*  
 7        *of such subparagraphs.”.*

8        **SEC. 162. INELIGIBILITY OF AGGRAVATED FELONS FOR AD-**  
 9                **JUSTMENT OF STATUS.**

10        *Section 244(c) (8 U.S.C. 1254(c)), as amended by sec-*  
 11        *tion 150 of this Act, is further amended by adding at the*  
 12        *end the following new sentence: “No person who has been*  
 13        *convicted of an aggravated felony shall be eligible for relief*  
 14        *under this subsection.”.*

15        **SEC. 163. EXPEDITIOUS DEPORTATION CREATES NO EN-**  
 16                **FORCEABLE RIGHT FOR AGGRAVATED FEL-**  
 17                **ONS.**

18        *Section 225 of the Immigration and Nationality Tech-*  
 19        *nical Corrections Act of 1994 (Public Law 103–416) is*  
 20        *amended by striking “section 242(i) of the Immigration*  
 21        *and Nationality Act (8 U.S.C. 1252(i))” and inserting “sec-*  
 22        *tions 242(i) or 242A of the Immigration and Nationality*  
 23        *Act (8 U.S.C. 1252(i) or 1252a)”.*

1 **SEC. 164. CUSTODY OF ALIENS CONVICTED OF AGGRA-**  
2 **VATED FELONIES.**

3 (a) *EXCLUSION AND DEPORTATION.*—Section 236 (8  
4 U.S.C. 1226) is amended in subsection (e)(2) by inserting  
5 after “unless” the following: “(A) the Attorney General de-  
6 termines, pursuant to section 3521 of title 18, United States  
7 Code, that release from custody is necessary to provide pro-  
8 tection to a witness, a potential witness, a person cooperat-  
9 ing with an investigation into major criminal activity, or  
10 an immediate family member or close associate of a witness,  
11 potential witness, or person cooperating with such an inves-  
12 tigation, and that after such release the alien would not  
13 be a threat to the community, or (B)”.

14 (b) *CUSTODY UPON RELEASE FROM INCARCER-*  
15 *ATION.*—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amend-  
16 ed to read as follows:

17 “(2)(A) The Attorney General shall take into custody  
18 any specially deportable criminal alien upon release of the  
19 alien from incarceration and shall deport the alien as expe-  
20 ditiously as possible. Notwithstanding any other provision  
21 of law, the Attorney General shall not release such felon  
22 from custody.

23 “(B) The Attorney General shall have sole and  
24 unreviewable discretion to waive subparagraph (A) for  
25 aliens who are cooperating with law enforcement authori-  
26 ties or for purposes of national security.”.

1       (c) *PERIOD IN WHICH TO EFFECT ALIEN’S DEPAR-*  
2 *TURE.—Section 242(c) is amended—*

3           (1) *in the first sentence—*

4                   (A) *by striking “(c)” and inserting “(c)(1)”;*

5                   *and*

6                   (B) *by inserting “(other than an alien de-*  
7 *scribed in paragraph (2))”;* *and*

8           (2) *by adding at the end the following new para-*  
9 *graphs:*

10       “(2)(A) *When a final order of deportation is made*  
11 *against any specially deportable criminal alien, the Attor-*  
12 *ney General shall have a period of 30 days from the later*  
13 *of—*

14                   “(i) *the date of such order, or*

15                   “(ii) *the alien’s release from incarceration,*  
16 *within which to effect the alien’s departure from the United*  
17 *States.*

18       “(B) *The Attorney General shall have sole and*  
19 *unreviewable discretion to waive subparagraph (A) for*  
20 *aliens who are cooperating with law enforcement authori-*  
21 *ties or for purposes of national security.*

22       “(3) *Nothing in this subsection shall be construed as*  
23 *providing a right enforceable by or on behalf of any alien*  
24 *to be released from custody or to challenge the alien’s depor-*  
25 *tation.”.*

1       (d) *CRIMINAL PENALTY FOR UNLAWFUL REENTRY.*—  
 2       Section 242(f) of the Immigration and Nationality Act (8  
 3       U.S.C. 1252(f)) is amended—

4               (1) by inserting “(1)” immediately after “(f)”;  
 5       and

6               (2) by adding at the end the following new para-  
 7       graph:

8       “(2) Any alien who has unlawfully reentered or is  
 9       found in the United States after having previously been de-  
 10      ported subsequent to a conviction for any criminal offense  
 11      covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or  
 12      two or more offenses described in clause (ii) of section  
 13      241(a)(2)(A), at least two of which resulted in a sentence  
 14      or confinement described in section 241(a)(2)(A)(i)(II),  
 15      shall, in addition to the punishment provided for any other  
 16      crime, be punished by imprisonment of not less than 15  
 17      years.”.

18       (e) *DEFINITION.*—Section 242 (8 U.S.C. 1252) is  
 19      amended by adding at the end the following new subsection:

20       “(k) For purposes of this section, the term ‘specially  
 21      deportable criminal alien’ means any alien convicted of an  
 22      offense described in subparagraph (A)(iii), (B), (C), or (D)  
 23      of section 241(a)(2), or two or more offenses described in  
 24      section 241(a)(2)(A)(ii), at least two of which resulted in



1 a sentence or confinement described in section  
 2 241(a)(2)(A)(i)(II).”.

3 **SEC. 165. JUDICIAL DEPORTATION.**

4 (a) *IN GENERAL.*—Section 242A (8 U.S.C. 1252a(d))  
 5 is amended—

6 (1) by redesignating subsection (d) as subsection  
 7 (c); and

8 (2) in subsection (c), as redesignated—

9 (A) by striking paragraph (1) and inserting  
 10 the following:

11 “(1) *AUTHORITY.*—Notwithstanding any  
 12 other provision of this Act, a United States dis-  
 13 trict court shall have jurisdiction to enter a judi-  
 14 cial order of deportation at the time of sentenc-  
 15 ing against an alien—

16 “(A) whose criminal conviction causes  
 17 such alien to be deportable under section  
 18 241(a)(2)(A)(iii) (relating to conviction of  
 19 an aggravated felony);

20 “(B) who has at any time been con-  
 21 victed of a violation of section 276 (a) or  
 22 (b) (relating to reentry of a deported alien);

23 “(C) who has at any time been con-  
 24 victed of a violation of section 275 (relating  
 25 to entry of an alien at an improper time or

1                   *place and to misrepresentation and conceal-*  
2                   *ment of facts); or*

3                   *“(D) who is otherwise deportable pur-*  
4                   *suant to any of the paragraphs (1) through*  
5                   *(5) of section 241(a).*

6                   *A United States Magistrate shall have jurisdic-*  
7                   *tion to enter a judicial order of deportation at*  
8                   *the time of sentencing where the alien has been*  
9                   *convicted of a misdemeanor offense and the alien*  
10                  *is deportable under this Act.”; and*

11                  *(B) by adding at the end the following new*  
12                  *paragraphs:*

13                  *“(5) STATE COURT FINDING OF DEPORTABIL-*  
14                  *ITY.—(A) On motion of the prosecution or on the*  
15                  *court’s own motion, any State court with jurisdiction*  
16                  *to enter judgments in criminal cases is authorized to*  
17                  *make a finding that the defendant is deportable as a*  
18                  *specially deportable criminal alien (as defined in sec-*  
19                  *tion 242(k)).*

20                  *“(B) The finding of deportability under subpara-*  
21                  *graph (A), when incorporated in a final judgment of*  
22                  *conviction, shall for all purposes be conclusive on the*  
23                  *alien and may not be reexamined by any agency or*  
24                  *court, whether by habeas corpus or otherwise. The*

1       *court shall notify the Attorney General of any finding*  
2       *of deportability.*

3               “(6) *STIPULATED JUDICIAL ORDER OF DEPORTA-*  
4       *TION.—The United States Attorney, with the concur-*  
5       *rence of the Commissioner, may, pursuant to Federal*  
6       *Rule of Criminal Procedure 11, enter into a plea*  
7       *agreement which calls for the alien, who is deportable*  
8       *under this Act, to waive the right to notice and a*  
9       *hearing under this section, and stipulate to the entry*  
10       *of a judicial order of deportation from the United*  
11       *States as a condition of the plea agreement or as a*  
12       *condition of probation or supervised release, or both.*  
13       *The United States District Court, in both felony and*  
14       *misdemeanor cases, and the United States Magistrate*  
15       *Court in misdemeanors cases, may accept such a stip-*  
16       *ulation and shall have jurisdiction to enter a judicial*  
17       *order of deportation pursuant to the terms of such*  
18       *stipulation.”.*

19       “(b) *CONFORMING AMENDMENTS.—(1) Section 512 of*  
20       *the Immigration Act of 1990 is amended by striking*  
21       *“242A(d)” and inserting “242A(c)”.*

22       “(2) *Section 130007(a) of the Violent Crime Control*  
23       *and Law Enforcement Act of 1994 (Public Law 103-322)*  
24       *is amended by striking “242A(d)” and inserting “242A(c)”.*

1 **SEC. 166. STIPULATED EXCLUSION OR DEPORTATION.**

2 (a) *EXCLUSION AND DEPORTATION.*—Section 236 (8  
3 U.S.C. 1226) is amended by adding at the end the following  
4 new subsection:

5 “(f) *The Attorney General shall provide by regulation*  
6 *for the entry by a special inquiry officer of an order of ex-*  
7 *clusion and deportation stipulated to by the alien and the*  
8 *Service. Such an order may be entered without a personal*  
9 *appearance by the alien before the special inquiry officer.*  
10 *A stipulated order shall constitute a conclusive determina-*  
11 *tion of the alien’s excludability and deportability from the*  
12 *United States.”.*

13 (b) *APPREHENSION AND DEPORTATION.*—Section 242  
14 (8 U.S.C. 1252) is amended in subsection (b)—

15 (1) *by redesignating paragraphs (1), (2), (3),*  
16 *and (4) as subparagraphs (A), (B), (C), and (D), re-*  
17 *spectively;*

18 (2) *by inserting “(1)” immediately after “(b)”;*

19 (3) *by striking the sentence beginning with “Ex-*  
20 *cept as provided in section 242A(d)” and inserting*  
21 *the following:*

22 “(2) *The Attorney General shall further provide by reg-*  
23 *ulation for the entry by a special inquiry officer of an order*  
24 *of deportation stipulated to by the alien and the Service.*  
25 *Such an order may be entered without a personal appear-*  
26 *ance by the alien before the special inquiry officer. A stipu-*

1 *lated order shall constitute a conclusive determination of*  
2 *the alien’s deportability from the United States.*

3       “(3) *The procedures prescribed in this subsection and*  
4 *in section 242A(c) shall be the sole and exclusive procedures*  
5 *for determining the deportability of an alien.”; and*

6               *(4) by redesignating the tenth sentence as para-*  
7 *graph (4); and*

8               *(5) by redesignating the eleventh and twelfth sen-*  
9 *tences as paragraph (5).*

10       *(c) CONFORMING AMENDMENTS.—(1) Section 106(a) is*  
11 *amended by striking “section 242(b)” and inserting “sec-*  
12 *tion 242(b)(1)”.*

13       *(2) Section 212(a)(6)(B)(iv) is amended by striking*  
14 *“section 242(b)” and inserting “section 242(b)(1)”.*

15       *(3) Section 242(a)(1) is amended by striking “sub-*  
16 *section (b)” and inserting “subsection (b)(1)”.*

17       *(4) Section 242A(b)(1) is amended by striking “section*  
18 *242(b)” and inserting “section 242(b)(1)”.*

19       *(5) Section 242A(c)(2)(D)(ii), as redesignated by sec-*  
20 *tion 165 of this Act, is amended by striking “section*  
21 *242(b)” and inserting “section 242(b)(1)”.*

22       *(6) Section 4113(a) of title 18, United States Code,*  
23 *is amended by striking “section 1252(b)” and inserting*  
24 *“section 1252(b)(1)”.*

1       (7) *Section 1821(e) of title 28, United States Code, is*  
 2 *amended by striking “section 242(b) of such Act (8 U.S.C.*  
 3 *1252(b))” and inserting “section 242(b)(1) of such Act (8*  
 4 *U.S.C. 1252(b)(1))”.*

5       (8) *Section 242B(c)(1) is amended by striking “section*  
 6 *242(b)(1)” and inserting “section 242(b)(4)”.*

7       (9) *Section 242B(e)(2)(A) is amended by striking “sec-*  
 8 *tion 242(b)(1)” and inserting “section 242(b)(4)”.*

9       (10) *Section 242B(e)(5)(A) is amended by striking*  
 10 *“section 242(b)(1)” and inserting “section 242(b)(4)”.*

11 **SEC. 167. DEPORTATION AS A CONDITION OF PROBATION.**

12       *Section 3563(b) of title 18, United States Code, is*  
 13 *amended—*

14               (1) *by striking “or” at the end of paragraph*  
 15 *(21);*

16               (2) *by striking the period at the end of para-*  
 17 *graph (22) and inserting “; or”; and*

18               (3) *by adding at the end the following new para-*  
 19 *graph:*

20               *“(23) be ordered deported by a United States*  
 21 *District Court, or United States Magistrate Court,*  
 22 *pursuant to a stipulation entered into by the defend-*  
 23 *ant and the United States under section 242A(c) of*  
 24 *the Immigration and Nationality Act (8 U.S.C.*  
 25 *1252a(c)), except that, in the absence of a stipulation,*

1       *the United States District Court or the United States*  
2       *Magistrate Court, may order deportation as a condi-*  
3       *tion of probation, if, after notice and hearing pursu-*  
4       *ant to section 242A(c) of the Immigration and Na-*  
5       *tionality Act, the Attorney General demonstrates by*  
6       *clear and convincing evidence that the alien is deport-*  
7       *able.”.*

8       **SEC. 168. ANNUAL REPORT ON CRIMINAL ALIENS.**

9       *Not later than 12 months after the date of the enact-*  
10      *ment of this Act, and annually thereafter, the Attorney Gen-*  
11      *eral shall submit to the Committees on the Judiciary of the*  
12      *House of Representatives and of the Senate a report detail-*  
13      *ing—*

14               *(1) the number of illegal aliens incarcerated in*  
15      *Federal and State prisons for having committed felo-*  
16      *nies, stating the number incarcerated for each type of*  
17      *offense;*

18               *(2) the number of illegal aliens convicted for felo-*  
19      *nies in any Federal or State court, but not sentenced*  
20      *to incarceration, in the year before the report was*  
21      *submitted, stating the number convicted for each type*  
22      *of offense;*

23               *(3) programs and plans underway in the De-*  
24      *partment of Justice to ensure the prompt removal*

1       *from the United States of criminal aliens subject to*  
2       *exclusion or deportation; and*

3               *(4) methods for identifying and preventing the*  
4       *unlawful reentry of aliens who have been convicted of*  
5       *criminal offenses in the United States and removed*  
6       *from the United States.*

7       **SEC. 169. UNDERCOVER INVESTIGATION AUTHORITY.**

8       *(a) AUTHORITIES.—(1) In order to conduct any un-*  
9       *dercover investigative operation of the Immigration and*  
10       *Naturalization Service which is necessary for the detection*  
11       *and prosecution of crimes against the United States, the*  
12       *Service is authorized—*

13               *(A) to lease space within the United States, the*  
14       *District of Columbia, and the territories and posses-*  
15       *sions of the United States without regard to section*  
16       *3679(a) of the Revised Statutes (31 U.S.C. 1341), sec-*  
17       *tion 3732(a) of the Revised Statutes (41 U.S.C.*  
18       *11(a)), section 305 of the Act of June 30, 1949 (63*  
19       *Stat. 396; 41 U.S.C. 255), the third undesignated*  
20       *paragraph under the heading “Miscellaneous” of the*  
21       *Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34),*  
22       *section 3648 of the Revised Statutes (31 U.S.C. 3324),*  
23       *section 3741 of the Revised Statutes (41 U.S.C. 22),*  
24       *and subsections (a) and (c) of section 304 of the Fed-*



1        *eral Property and Administrative Services Act of*  
2        *1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));*

3            *(B) to establish or to acquire proprietary cor-*  
4        *porations or business entities as part of an under-*  
5        *cover operation, and to operate such corporations or*  
6        *business entities on a commercial basis, without re-*  
7        *gard to the provisions of section 304 of the Govern-*  
8        *ment Corporation Control Act (31 U.S.C. 9102);*

9            *(C) to deposit funds, including the proceeds from*  
10       *such undercover operation, in banks or other finan-*  
11       *cial institutions without regard to the provisions of*  
12       *section 648 of title 18 of the United States Code, and*  
13       *section 3639 of the Revised Statutes (31 U.S.C. 3302);*  
14       *and*

15           *(D) to use the proceeds from such undercover op-*  
16       *erations to offset necessary and reasonable expenses*  
17       *incurred in such operations without regard to the*  
18       *provisions of section 3617 of the Revised Statutes (31*  
19       *U.S.C. 3302).*

20        *(2) The authorization set forth in paragraph (1) may*  
21       *be exercised only upon written certification of the Commis-*  
22       *sioner of the Immigration and Naturalization Service, in*  
23       *consultation with the Deputy Attorney General, that any*  
24       *action authorized by paragraph (1) (A), (B), (C), or (D)*  
25       *is necessary for the conduct of such undercover operation.*

1       (b) *UNUSED FUNDS.*—As soon as practicable after the  
2 proceeds from an undercover investigative operation, car-  
3 ried out under paragraph (1) (C) or (D) of subsection (a),  
4 are no longer necessary for the conduct of such operation,  
5 such proceeds or the balance of such proceeds remaining at  
6 the time shall be deposited into the Treasury of the United  
7 States as miscellaneous receipts.

8       (c) *REPORT.*—If a corporation or business entity es-  
9 tablished or acquired as part of an undercover operation  
10 under subsection (a)(1)(B) with a net value of over \$50,000  
11 is to be liquidated, sold, or otherwise disposed of, the Immi-  
12 gration and Naturalization Service, as much in advance  
13 as the Commissioner or his or her designee determine prac-  
14 ticable, shall report the circumstances to the Attorney Gen-  
15 eral, the Director of the Office of Management and Budget,  
16 and the Comptroller General of the United States. The pro-  
17 ceeds of the liquidation, sale, or other disposition, after obli-  
18 gations are met, shall be deposited in the Treasury of the  
19 United States as miscellaneous receipts.

20       (d) *AUDITS.*—The Immigration and Naturalization  
21 Service shall conduct detailed financial audits of closed un-  
22 dercover operations on a quarterly basis and shall report  
23 the results of the audits in writing to the Deputy Attorney  
24 General.

1 **SEC. 170. PRISONER TRANSFER TREATIES.**

2       (a) *NEGOTIATIONS WITH OTHER COUNTRIES.—(1)*  
3 *Congress advises the President to begin to negotiate and re-*  
4 *negotiate, not later than 90 days after the date of enactment*  
5 *of this Act, bilateral prisoner transfer treaties, providing*  
6 *for the incarceration, in the country of the alien’s national-*  
7 *ity, of any alien who—*

8               (A) *is a national of a country that is party to*  
9 *such a treaty; and*

10              (B) *has been convicted of a criminal offense*  
11 *under Federal or State law and who—*

12                      (i) *is not in lawful immigration status in*  
13 *the United States, or*

14                      (ii) *on the basis of conviction for a criminal*  
15 *offense under Federal or State law, or on any*  
16 *other basis, is subject to deportation under the*  
17 *Immigration and Nationality Act,*

18 *for the duration of the prison term to which the alien was*  
19 *sentenced for the offense referred to in subparagraph (B).*  
20 *Any such agreement may provide for the release of such*  
21 *alien pursuant to parole procedures of that country.*

22       (2) *In entering into negotiations under paragraph (1),*  
23 *the President may consider providing for appropriate com-*  
24 *pensation, subject to the availability of appropriations, in*  
25 *cases where the United States is able to independently ver-*  
26 *ify the adequacy of the sites where aliens will be imprisoned*

1 *and the length of time the alien is actually incarcerated*  
2 *in the foreign country under such a treaty.*

3 (b) *SENSE OF CONGRESS.—It is the sense of the Con-*  
4 *gress that—*

5 (1) *the focus of negotiations for such agreements*  
6 *should be—*

7 (A) *to expedite the transfer of aliens unlaw-*  
8 *fully in the United States who are (or are about*  
9 *to be) incarcerated in United States prisons,*

10 (B) *to ensure that a transferred prisoner*  
11 *serves the balance of the sentence imposed by the*  
12 *United States courts,*

13 (C) *to eliminate any requirement of pris-*  
14 *oner consent to such a transfer, and*

15 (D) *to allow the Federal Government or the*  
16 *States to keep their original prison sentences in*  
17 *force so that transferred prisoners who return to*  
18 *the United States prior to the completion of their*  
19 *original United States sentences can be returned*  
20 *to custody for the balance of their prisons sen-*  
21 *tences;*

22 (2) *the Secretary of State should give priority to*  
23 *concluding an agreement with any country for which*  
24 *the President determines that the number of aliens de-*  
25 *scribed in subsection (a) who are nationals of that*

1       country in the United States represents a significant  
2       percentage of all such aliens in the United States; and

3           (3) no new treaty providing for the transfer of  
4       aliens from Federal, State, or local incarceration fa-  
5       cilities to a foreign incarceration facility should per-  
6       mit the alien to refuse the transfer.

7       (c) *PRISONER CONSENT*.—Notwithstanding any other  
8       provision of law, except as required by treaty, the transfer  
9       of an alien from a Federal, State, or local incarceration  
10      facility under an agreement of the type referred to in sub-  
11      section (a) shall not require consent of the alien.

12      (d) *ANNUAL REPORT*.—Not later than 90 days after  
13      the date of the enactment of this Act, and annually there-  
14      after, the Attorney General shall submit a report to the  
15      Committees on the Judiciary of the House of Representa-  
16      tives and of the Senate stating whether each prisoner trans-  
17      fer treaty to which the United States is a party has been  
18      effective in the preceding 12 months in bringing about the  
19      return of deportable incarcerated aliens to the country of  
20      which they are nationals and in ensuring that they serve  
21      the balance of their sentences.

22      (e) *TRAINING FOREIGN LAW ENFORCEMENT PERSON-*  
23      *NEL*.—(1) Subject to paragraph (2), the President shall di-  
24      rect the Border Patrol Academy and the Customs Service  
25      Academy to enroll for training an appropriate number of

1 *foreign law enforcement personnel, and shall make appoint-*  
 2 *ments of foreign law enforcement personnel to such acad-*  
 3 *emies, as necessary to further the following United States*  
 4 *law enforcement goals:*

5           (A) *prevention of drug smuggling and other*  
 6           *cross-border criminal activity;*

7           (B) *preventing illegal immigration; and*

8           (C) *preventing the illegal entry of goods into the*  
 9           *United States (including goods the sale of which is il-*  
 10           *legal in the United States, the entry of which would*  
 11           *cause a quota to be exceeded, or which have not paid*  
 12           *the appropriate duty or tariff).*

13       (2) *The appointments described in paragraph (1) shall*  
 14 *be made only to the extent there is capacity in such acad-*  
 15 *emies beyond what is required to train United States citi-*  
 16 *zens needed in the Border Patrol and Customs Service, and*  
 17 *only of personnel from a country with which the prisoner*  
 18 *transfer treaty has been stated to be effective in the most*  
 19 *recent report referred to in subsection (d).*

20       (f) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
 21 *authorized to be appropriated such sums as may be nec-*  
 22 *essary to carry out this section.*

23 **SEC. 170A. PRISONER TRANSFER TREATIES STUDY.**

24       (a) *REPORT TO CONGRESS.—Not later than 180 days*  
 25 *after the date of the enactment of this Act, the Secretary*

1 *of State and the Attorney General shall submit to the Con-*  
2 *gress a report that describes the use and effectiveness of the*  
3 *prisoner transfer treaties with the three countries with the*  
4 *greatest number of their nationals incarcerated in the Unit-*  
5 *ed States in removing from the United States such incarcer-*  
6 *ated nationals.*

7       **(b) USE OF TREATY.**—*The report under subsection (a)*  
8 *shall include—*

9               *(1) the number of aliens convicted of a criminal*  
10 *offense in the United States since November 30, 1977,*  
11 *who would have been or are eligible for transfer pur-*  
12 *suant to the treaties;*

13               *(2) the number of aliens described in paragraph*  
14 *(1) who have been transferred pursuant to the trea-*  
15 *ties;*

16               *(3) the number of aliens described in paragraph*  
17 *(2) who have been incarcerated in full compliance*  
18 *with the treaties;*

19               *(4) the number of aliens who are incarcerated in*  
20 *a penal institution in the United States who are eli-*  
21 *gible for transfer pursuant to the treaties; and*

22               *(5) the number of aliens described in paragraph*  
23 *(4) who are incarcerated in Federal, State, and local*  
24 *penal institutions in the United States.*

1       (c) *RECOMMENDATIONS.*—*The report under subsection*  
2 *(a) shall include the recommendations of the Secretary of*  
3 *State and the Attorney General to increase the effectiveness*  
4 *and use of, and full compliance with, the treaties. In consid-*  
5 *ering the recommendations under this subsection, the Sec-*  
6 *retary and the Attorney General shall consult with such*  
7 *State and local officials in areas disproportionately im-*  
8 *pacted by aliens convicted of criminal offenses as the Sec-*  
9 *retary and the Attorney General consider appropriate. Such*  
10 *recommendations shall address—*

11           (1) *changes in Federal laws, regulations, and*  
12 *policies affecting the identification, prosecution, and*  
13 *deportation of aliens who have committed criminal*  
14 *offenses in the United States;*

15           (2) *changes in State and local laws, regulations,*  
16 *and policies affecting the identification, prosecution,*  
17 *and deportation of aliens who have committed a*  
18 *criminal offense in the United States;*

19           (3) *changes in the treaties that may be necessary*  
20 *to increase the number of aliens convicted of criminal*  
21 *offenses who may be transferred pursuant to the trea-*  
22 *ties;*

23           (4) *methods for preventing the unlawful reentry*  
24 *into the United States of aliens who have been con-*



1 *victed of criminal offenses in the United States and*  
 2 *transferred pursuant to the treaties;*

3 *(5) any recommendations by appropriate offi-*  
 4 *cials of the appropriate government agencies of such*  
 5 *countries regarding programs to achieve the goals of,*  
 6 *and ensure full compliance with, the treaties;*

7 *(6) whether the recommendations under this sub-*  
 8 *section require the renegotiation of the treaties; and*

9 *(7) the additional funds required to implement*  
 10 *each recommendation under this subsection.*

11 **SEC. 170B. USING ALIEN FOR IMMORAL PURPOSES, FILING**  
 12 **REQUIREMENT.**

13 *Section 2424 of title 18, United States Code, is amend-*  
 14 *ed—*

15 *(1) in the first undesignated paragraph of sub-*  
 16 *section (a)—*

17 *(A) by striking “alien” each place it ap-*  
 18 *pears;*

19 *(B) by inserting after “individual” the first*  
 20 *place it appears the following: “, knowing or in*  
 21 *reckless disregard of the fact that the individual*  
 22 *is an alien”; and*

23 *(C) by striking “within three years after*  
 24 *that individual has entered the United States*  
 25 *from any country, party to the arrangement*

1           *adopted July 25, 1902, for the suppression of the*  
 2           *white-slave traffic”;*

3           *(2) in the second undesignated paragraph of sub-*  
 4           *section (a)—*

5                     *(A) by striking “thirty” and inserting “five*  
 6                     *business”;* *and*

7                     *(B) by striking “within three years after*  
 8                     *that individual has entered the United States*  
 9                     *from any country, party to the said arrangement*  
 10                    *for the suppression of the white-slave traffic,”;*

11           *(3) in the text following the third undesignated*  
 12           *paragraph of subsection (a), by striking “two” and*  
 13           *inserting “10”;* *and*

14           *(4) in subsection (b), before the period at the end*  
 15           *of the second sentence, by inserting “, or for enforce-*  
 16           *ment of the provisions of section 274A of the Immig-*  
 17           *ration and Nationality Act”.*

18 **SEC. 170C. TECHNICAL CORRECTIONS TO VIOLENT CRIME**  
 19                     **CONTROL ACT AND TECHNICAL CORREC-**  
 20                     **TIONS ACT.**

21           *(a) IN GENERAL.—The second subsection (i) of section*  
 22           *245 (as added by section 130003(c)(1) of the Violent Crime*  
 23           *Control and Law Enforcement Act of 1994; Public Law*  
 24           *103–322) is redesignated as subsection (j) of such section.*

1           (b)           CONFORMING           AMENDMENT.—Section  
 2   241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amend-  
 3   ed by striking “section 245(i)” and inserting “section  
 4   245(j)”.

5           (c)   DENIAL OF JUDICIAL ORDER.—(1) Section  
 6   242A(c)(4), as redesignated by section 165 of this Act, is  
 7   amended by striking “without a decision on the merits”.  
 8           (2) The amendment made by this subsection shall be  
 9   effective as if originally included in section 223 of the Im-  
 10 migration and Nationality Technical Corrections Act of  
 11 1994 (Public Law 103–416).

12   **SEC. 170D. DEMONSTRATION PROJECT FOR IDENTIFICA-**  
 13                           **TION OF ILLEGAL ALIENS IN INCARCERATION**  
 14                           **FACILITY OF ANAHEIM, CALIFORNIA.**

15           (a) AUTHORITY.—The Attorney General is authorized  
 16 to conduct a project demonstrating the feasibility of identi-  
 17 fying illegal aliens among those individuals who are incar-  
 18 cerated in local governmental prison facilities prior to ar-  
 19 raignment on criminal charges.

20           (b) DESCRIPTION OF PROJECT.—The project author-  
 21 ized by subsection (a) shall include the detail to the city  
 22 of Anaheim, California, of an employee of the Immigration  
 23 and Naturalization Service having expertise in the identi-  
 24 fication of illegal aliens for the purpose of training local  
 25 officials in the identification of such aliens.

1       (c) *TERMINATION.*—*The authority of this section shall*  
 2 *cease to be effective 6 months after the date of the enactment*  
 3 *of this Act.*

4       (d) *DEFINITION.*—*As used in this section, the term “il-*  
 5 *legal alien” means an alien in the United States who is*  
 6 *not within any of the following classes of aliens:*

7           (1) *Aliens lawfully admitted for permanent resi-*  
 8 *dence.*

9           (2) *Nonimmigrant aliens described in section*  
 10 *101(a)(15) of the Immigration and Nationality Act.*

11           (3) *Refugees.*

12           (4) *Asylees.*

13           (5) *Parolees.*

14           (6) *Aliens having deportation withheld under*  
 15 *section 243(h) of the Immigration and Nationality*  
 16 *Act.*

17           (7) *Aliens having temporary residence status.*

18                           **PART 6—MISCELLANEOUS**

19   **SEC. 171. IMMIGRATION EMERGENCY PROVISIONS.**

20       (a) *REIMBURSEMENT OF FEDERAL AGENCIES FROM*  
 21 *IMMIGRATION EMERGENCY FUND.*—*Section 404(b) (8*  
 22 *U.S.C. 1101 note) is amended—*

23           (1) *in paragraph (1)—*

24                   (A) *after “paragraph (2)” by striking*  
 25 *“and” and inserting a comma,*

1           (B) by striking “State” and inserting  
2           “other Federal agencies and States”,

3           (C) by inserting “, and for the costs associ-  
4           ated with repatriation of aliens attempting to  
5           enter the United States illegally, whether appre-  
6           hended within or outside the territorial sea of the  
7           United States” before “except”, and

8           (D) by adding at the end the following new  
9           sentence: “The fund may be used for the costs of  
10          such repatriations without the requirement for a  
11          determination by the President that an immi-  
12          gration emergency exists.”; and

13          (2) in paragraph (2)(A)—

14               (A) by inserting “to Federal agencies pro-  
15               viding support to the Department of Justice or”  
16               after “available”; and

17               (B) by inserting a comma before “when-  
18               ever”.

19          (b) *VESSEL MOVEMENT CONTROLS*.—Section 1 of the  
20          Act of June 15, 1917 (50 U.S.C. 191) is amended in the  
21          first sentence by inserting “or whenever the Attorney Gen-  
22          eral determines that an actual or anticipated mass migra-  
23          tion of aliens en route to or arriving off the coast of the  
24          United States presents urgent circumstances requiring an

1 *immediate Federal response,” after “United States,” the*  
 2 *first place it appears.*

3       (c) *DELEGATION OF IMMIGRATION ENFORCEMENT AU-*  
 4 *THORITY.—Section 103 (8 U.S.C. 1103) is amended by add-*  
 5 *ing at the end of subsection (a) the following new sentence:*  
 6 *“In the event the Attorney General determines that an ac-*  
 7 *tual or imminent mass influx of aliens arriving off the coast*  
 8 *of the United States, or near a land border, presents urgent*  
 9 *circumstances requiring an immediate Federal response, the*  
 10 *Attorney General may authorize any specially designated*  
 11 *State or local law enforcement officer, with the consent of*  
 12 *the head of the department, agency, or establishment under*  
 13 *whose jurisdiction the individual is serving, to perform or*  
 14 *exercise any of the powers, privileges, or duties conferred*  
 15 *or imposed by this Act or regulations issued thereunder*  
 16 *upon officers or employees of the Service.”.*

17 **SEC. 172. AUTHORITY TO DETERMINE VISA PROCESSING**  
 18 **PROCEDURES.**

19 *Section 202(a)(1) (8 U.S.C. 1152(a)(1)) is amended—*

20       (1) *by inserting “(A)” after “NONDISCRIMINA-*  
 21 *TION.—”; and*

22       (2) *by adding at the end the following:*

23       “(B) *Nothing in this paragraph shall be con-*  
 24 *strued to limit the authority of the Secretary of State*  
 25 *to determine the procedures for the processing of im-*

1        *migrant visa applications or the locations where such*  
2        *applications will be processed.”.*

3    **SEC. 173. JOINT STUDY OF AUTOMATED DATA COLLECTION.**

4        *(a) STUDY.—The Attorney General, together with the*  
5        *Secretary of State, the Secretary of Agriculture, the Sec-*  
6        *retary of the Treasury, and appropriate representatives of*  
7        *the air transport industry, shall jointly undertake a study*  
8        *to develop a plan for making the transition to automated*  
9        *data collection at ports of entry.*

10       *(b) REPORT.—Nine months after the date of enactment*  
11       *of this Act, the Attorney General shall submit a report to*  
12       *the Committees on the Judiciary of the Senate and the*  
13       *House of Representatives on the outcome of this joint initia-*  
14       *tive, noting specific areas of agreement and disagreement,*  
15       *and recommending further steps to be taken, including any*  
16       *suggestions for legislation.*

17    **SEC. 174. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.**

18       *Not later than 2 years after the date of the enactment*  
19       *of this Act, the Attorney General shall develop an automated*  
20       *entry and exit control system that will enable the Attorney*  
21       *General to identify, through on-line searching procedures,*  
22       *lawfully admitted nonimmigrants who remain in the Unit-*  
23       *ed States beyond the period authorized by the Attorney Gen-*  
24       *eral.*

1 **SEC. 175. USE OF LEGALIZATION AND SPECIAL AGRICUL-**  
2 **TURAL WORKER INFORMATION.**

3 (a) *CONFIDENTIALITY OF INFORMATION.*—Section  
4 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended by striking  
5 “except that the Attorney General” and inserting the follow-  
6 ing: “except that the Attorney General shall provide infor-  
7 mation furnished under this section to a duly recognized  
8 law enforcement entity in connection with a criminal inves-  
9 tigation or prosecution, when such information is requested  
10 in writing by such entity, or to an official coroner for pur-  
11 poses of affirmatively identifying a deceased individual  
12 (whether or not such individual is deceased as a result of  
13 a crime) and”.

14 (b) *SPECIAL AGRICULTURAL WORKERS.*—Section  
15 210(b)(6)(C) (8 U.S.C. 1160(b)(6)(C)) is amended—

16 (1) by striking the period at the end of subpara-  
17 graph (C) and inserting a comma; and

18 (2) by adding in full measure margin after sub-  
19 paragraph (C) the following:

20 “except that the Attorney General shall provide infor-  
21 mation furnished under this section to a duly recog-  
22 nized law enforcement entity in connection with a  
23 criminal investigation or prosecution, when such in-  
24 formation is requested in writing by such entity, or  
25 to an official coroner for purposes of affirmatively



1       *identifying a deceased individual (whether or not*  
 2       *such individual is deceased as a result of a crime).”.*

3   **SEC. 176. RESCISSION OF LAWFUL PERMANENT RESIDENT**  
 4       **STATUS.**

5       *Section 246(a) (8 U.S.C. 1256(a)) is amended—*

6           *(1) by inserting “(1)” immediately after “(a)”;*  
 7       *and*

8           *(2) by adding at the end the following new sen-*  
 9       *tence: “Nothing in this subsection requires the Attor-*  
 10      *ney General to rescind the alien’s status prior to com-*  
 11      *mencement of procedures to deport the alien under*  
 12      *section 242 or 242A, and an order of deportation is-*  
 13      *ssued by a special inquiry officer shall be sufficient to*  
 14      *rescind the alien’s status.”.*

15   **SEC. 177. COMMUNICATION BETWEEN FEDERAL, STATE,**  
 16       **AND LOCAL GOVERNMENT AGENCIES, AND**  
 17       **THE IMMIGRATION AND NATURALIZATION**  
 18       **SERVICE.**

19       *Notwithstanding any other provision of Federal, State,*  
 20      *or local law, no Federal, State, or local government entity*  
 21      *shall prohibit, or in any way restrict, any government en-*  
 22      *tity or any official within its jurisdiction from sending to,*  
 23      *or receiving from, the Immigration and Naturalization*  
 24      *Service information regarding the immigration status, law-*  
 25      *ful or unlawful, of any person.*

1 **SEC. 178. AUTHORITY TO USE VOLUNTEERS.**

2       (a) *ACCEPTANCE OF DONATED SERVICES.*—Notwith-  
3 standing any other provision of law, but subject to sub-  
4 section (b), the Attorney General may accept, administer,  
5 and utilize gifts of services from any person for the purpose  
6 of providing administrative assistance to the Immigration  
7 and Naturalization Service in administering programs re-  
8 lating to naturalization, adjudications at ports of entry,  
9 and removal of criminal aliens. Nothing in this section re-  
10 quires the Attorney General to accept the services of any  
11 person.

12       (b) *LIMITATION.*—Such person may not administer or  
13 score tests and may not adjudicate.

14 **SEC. 179. AUTHORITY TO ACQUIRE FEDERAL EQUIPMENT**  
15 **FOR BORDER.**

16       *In order to facilitate or improve the detection, interdic-*  
17 *tion, and reduction by the Immigration and Naturalization*  
18 *Service of illegal immigration into the United States, the*  
19 *Attorney General is authorized to acquire and utilize any*  
20 *Federal equipment (including, but not limited to, fixed-*  
21 *wing aircraft, helicopters, four-wheel drive vehicles, sedans,*  
22 *night vision goggles, night vision scopes, and sensor units)*  
23 *determined available for transfer to the Department of Jus-*  
24 *tice by any other agency of the Federal Government upon*  
25 *request of the Attorney General.*

1 **SEC. 180. LIMITATION ON LEGALIZATION LITIGATION.**

2 (a) *LIMITATION ON COURT JURISDICTION.*—Section  
3 245A(f)(4) is amended by adding at the end the following  
4 new subparagraph:

5 “(C) *JURISDICTION OF COURTS.*—Notwithstanding  
6 any other provision of law, no court shall have jurisdiction  
7 of any cause of action or claim by or on behalf of any per-  
8 son asserting an interest under this section unless such per-  
9 son in fact filed an application under this section within  
10 the period specified by subsection (a)(1), or attempted to  
11 file a complete application and application fee with an au-  
12 thorized legalization officer of the Immigration and Natu-  
13 ralization Service but had the application and fee refused  
14 by that officer.”.

15 (b) *EFFECTIVE DATE.*—The amendment made by this  
16 section shall be effective as if originally included in section  
17 201 of the Immigration Control and Financial Responsibil-  
18 ity Act of 1986.

19 **SEC. 181. LIMITATION ON ADJUSTMENT OF STATUS.**

20 Section 245(c) (8 U.S.C. 1255(c)) is amended—

21 (1) by striking “or (5)” and inserting “(5)”; and

22 (2) by inserting before the period at the end the  
23 following: “; (6) any alien who seeks adjustment of  
24 status as an employment-based immigrant and is not  
25 in a lawful nonimmigrant status; or (7) any alien  
26 who was employed while the alien was an unauthor-

1        *ized alien, as defined in section 274A(h)(3), or who*  
2        *has otherwise violated the terms of a nonimmigrant*  
3        *visa”.*

4    **SEC. 182. REPORT ON DETENTION SPACE.**

5        *(a) IN GENERAL.—Not later than one year after the*  
6        *date of the enactment of this Act, the Attorney General shall*  
7        *submit a report to the Congress estimating the amount of*  
8        *detention space that would be required on the date of enact-*  
9        *ment of this Act, in 5 years, and in 10 years, under various*  
10       *policies on the detention of aliens, including but not limited*  
11       *to—*

12                *(1) detaining all excludable or deportable aliens*  
13        *who may lawfully be detained;*

14                *(2) detaining all excludable or deportable aliens*  
15        *who previously have been excluded, been deported, de-*  
16        *ported while an order of exclusion or deportation was*  
17        *outstanding, voluntarily departed under section 244,*  
18        *or voluntarily returned after being apprehended while*  
19        *violating an immigration law of the United States;*  
20        *and*

21                *(3) the current policy.*

22        *(b) ESTIMATE OF NUMBER OF ALIENS RELEASED*  
23        *INTO THE COMMUNITY.—Such report shall also estimate the*  
24        *number of excludable or deportable aliens who have been*  
25        *released into the community in each of the 3 years prior*

1 *to the date of enactment of this Act under circumstances*  
 2 *that the Attorney General believes justified detention (for*  
 3 *example, a significant probability that the released alien*  
 4 *would not appear, as agreed, at subsequent exclusion or de-*  
 5 *portation proceedings), but a lack of detention facilities re-*  
 6 *quired release.*

7 **SEC. 183. COMPENSATION OF IMMIGRATION JUDGES.**

8 (a) *COMPENSATION.*—

9 (1) *IN GENERAL.*—*There shall be four levels of*  
 10 *pay for special inquiry officers of the Department of*  
 11 *Justice (in this section referred to as “immigration*  
 12 *judges”) under the Immigration Judge Schedule (des-*  
 13 *ignated as IJ-1, IJ-2, IJ-3, and IJ-4, respectively),*  
 14 *and each such judge shall be paid at one of those lev-*  
 15 *els, in accordance with the provisions of this sub-*  
 16 *section.*

17 (2) *RATES OF PAY.*—(A) *The rates of basic pay*  
 18 *for the levels established under paragraph (1) shall be*  
 19 *as follows:*

<i>IJ-1 .....</i>	<i>70 percent of the next to highest rate of basic pay for the Senior Executive Service.</i>
<i>IJ-2 .....</i>	<i>80 percent of the next to highest rate of basic pay for the Senior Executive Service.</i>
<i>IJ-3 .....</i>	<i>90 percent of the next to highest rate of basic pay for the Senior Executive Service.</i>
<i>IJ-4 .....</i>	<i>92 percent of the next to highest rate of basic pay for the Senior Executive Service.</i>

1           (B) *Locality pay, where applicable, shall be cal-*  
 2           *culated into the basic pay for immigration judges.*

3           (3) *APPOINTMENT.—(A) Upon appointment, an*  
 4           *immigration judge shall be paid at IJ–1, and shall*  
 5           *be advanced to IJ–2 upon completion of 104 weeks of*  
 6           *service, to IJ–3 upon completion of 104 weeks of serv-*  
 7           *ice in the next lower rate, and to IJ–4 upon comple-*  
 8           *tion of 52 weeks of service in the next lower rate.*

9           (B) *The Attorney General may provide for ap-*  
 10          *pointment of an immigration judge at an advanced*  
 11          *rate under such circumstances as the Attorney Gen-*  
 12          *eral may determine appropriate.*

13          (4) *TRANSITION.—Judges serving on the Immi-*  
 14          *gration Court as of the effective date of this subsection*  
 15          *shall be paid at the rate that corresponds to the*  
 16          *amount of time, as provided under paragraph (3)(A),*  
 17          *that they have served as an immigration judge.*

18          (b) *EFFECTIVE DATE.—Subsection (a) shall take effect*  
 19          *90 days after the date of the enactment of this Act.*

20   **SEC. 184. ACCEPTANCE OF STATE SERVICES TO CARRY OUT**  
 21                 **IMMIGRATION ENFORCEMENT.**

22          *Section 287 (8 U.S.C. 1357) is amended by adding*  
 23          *at the end the following:*

24          “(g)(1) *Notwithstanding section 1342 of title 31, Unit-*  
 25          *ed States Code, the Attorney General may enter into a writ-*

1 *ten agreement with a State, or any political subdivision*  
2 *of a State, pursuant to which an officer or employee of the*  
3 *State or subdivision, who is determined by the Attorney*  
4 *General to be qualified to perform a function of an immi-*  
5 *gration officer in relation to the arrest or detention of aliens*  
6 *in the United States (including the transportation of such*  
7 *aliens across State lines to detention centers), may carry*  
8 *out such function at the expense of the State or political*  
9 *subdivision and to the extent consistent with State and local*  
10 *law.*

11       “(2) *An agreement under this subsection shall require*  
12 *that an officer or employee of a State or political subdivi-*  
13 *sion of a State performing a function under the agreement*  
14 *shall have knowledge of, and adhere to, Federal law relating*  
15 *to the function, and shall contain a written certification*  
16 *that the officers or employees performing the function under*  
17 *the agreement have received adequate training regarding*  
18 *the enforcement of relevant Federal immigration laws.*

19       “(3) *In performing a function under this subsection,*  
20 *an officer or employee of a State or political subdivision*  
21 *of a State shall be subject to the direction and supervision*  
22 *of the Attorney General.*

23       “(4) *In performing a function under this subsection,*  
24 *an officer or employee of a State or political subdivision*  
25 *of a State may use Federal property or facilities, as pro-*

1 *vided in a written agreement between the Attorney General*  
2 *and the State or subdivision.*

3       “(5) *With respect to each officer or employee of a State*  
4 *or political subdivision who is authorized to perform a*  
5 *function under this subsection, the specific powers and du-*  
6 *ties that may be, or are required to be, exercised or per-*  
7 *formed by the individual, the duration of the authority of*  
8 *the individual, and the position of the agency of the Attor-*  
9 *ney General who is required to supervise and direct the in-*  
10 *dividual, shall be set forth in a written agreement between*  
11 *the Attorney General and the State or political subdivision.*

12       “(6) *The Attorney General may not accept a service*  
13 *under this subsection if the service will be used to displace*  
14 *any Federal employee.*

15       “(7) *Except as provided in paragraph (8), an officer*  
16 *or employee of a State or political subdivision of a State*  
17 *performing functions under this subsection shall not be*  
18 *treated as a Federal employee for any purpose other than*  
19 *for purposes of chapter 81 of title 5, United States Code,*  
20 *(relating to compensation for injury) and sections 2671*  
21 *through 2680 of title 28, United States Code (relating to*  
22 *tort claims).*

23       “(8) *An officer or employee of a State or political sub-*  
24 *division of a State acting under color of authority under*  
25 *this subsection, or any agreement entered into under this*



1 subsection, shall be considered to be acting under color of  
 2 Federal authority for purposes of determining the liability,  
 3 and immunity from suit, of the officer or employee in a  
 4 civil action brought under Federal or State law.

5 “(9) Nothing in this subsection shall be construed to  
 6 require any State or political subdivision of a State to enter  
 7 into an agreement with the Attorney General under this  
 8 subsection.

9 “(10) Nothing in this subsection shall be construed to  
 10 require an agreement under this subsection in order for any  
 11 officer or employee of a State or political subdivision of a  
 12 State—

13 “(A) to communicate with the Attorney General  
 14 regarding the immigration status of any individual,  
 15 including reporting knowledge that a particular alien  
 16 is not lawfully present in the United States; or

17 “(B) otherwise to cooperate with the Attorney  
 18 General in the identification, apprehension, detention,  
 19 or removal of aliens not lawfully present in the Unit-  
 20 ed States.”.

21 **SEC. 185. ALIEN WITNESS COOPERATION.**

22 Section 214(j)(1) of the Immigration and Nationality  
 23 Act (8 U.S.C. 1184(j)(1)) (relating to numerical limitations  
 24 on the number of aliens that may be provided visas as non-

1 *immigrants under section 101(a)(15)(5)(ii) of such Act) is*  
 2 *amended—*

3 *(1) by striking “100” and inserting “200”; and*

4 *(2) by striking “25” and inserting “50”.*

## 5 ***Subtitle B—Other Control Measures***

### 6 ***PART 1—PAROLE AUTHORITY***

#### 7 ***SEC. 191. USABLE ONLY ON A CASE-BY-CASE BASIS FOR HU-***

#### 8 ***MANITARIAN REASONS OR SIGNIFICANT PUB-***

#### 9 ***LIC BENEFIT.***

10 *Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is amend-*  
 11 *ed by striking “for emergent reasons or for reasons deemed*  
 12 *strictly in the public interest” and inserting “on a case-*  
 13 *by-case basis for urgent humanitarian reasons or signifi-*  
 14 *cant public benefit”.*

#### 15 ***SEC. 192. INCLUSION IN WORLDWIDE LEVEL OF FAMILY-***

#### 16 ***SPONSORED IMMIGRANTS.***

17 *(a) IN GENERAL.—Section 201(c) (8 U.S.C. 1151(c))*  
 18 *is amended—*

19 *(1) by amending paragraph (1)(A)(ii) to read as*  
 20 *follows:*

21 *“(ii) the sum of the number computed under*  
 22 *paragraph (2) and the number computed under para-*  
 23 *graph (4), plus”; and*

24 *(2) by adding at the end the following new para-*  
 25 *graphs:*

1       “(4) *The number computed under this paragraph for*  
2 *a fiscal year is the number of aliens who were paroled into*  
3 *the United States under section 212(d)(5) in the second pre-*  
4 *ceding fiscal year and who did not depart from the United*  
5 *States within 365 days.*

6       “(5) *If any alien described in paragraph (4) is subse-*  
7 *quently admitted as an alien lawfully admitted for perma-*  
8 *nent residence, such alien shall not again be considered for*  
9 *purposes of paragraph (1).”.*

10       (b) *INCLUSION OF PAROLED ALIENS.—Section 202 (8*  
11 *U.S.C. 1152) is amended by adding at the end the following*  
12 *new subsection:*

13       “(f)(1) *For purposes of subsection (a)(2), an immi-*  
14 *grant visa shall be considered to have been made available*  
15 *in a fiscal year to any alien who is not an alien lawfully*  
16 *admitted for permanent residence but who was paroled into*  
17 *the United States under section 212(d)(5) in the second pre-*  
18 *ceding fiscal year and who did not depart from the United*  
19 *States within 365 days.*

20       “(2) *If any alien described in paragraph (1) is subse-*  
21 *quently admitted as an alien lawfully admitted for perma-*  
22 *nent residence, an immigrant visa shall not again be con-*  
23 *sidered to have been made available for purposes of sub-*  
24 *section (a)(2).”.*

**PART 2—ASYLUM****2 SEC. 193. TIME LIMITATION ON ASYLUM CLAIMS.**

3       (a) Section 208(a) (8 U.S.C. 1158(a)) is amended—

4               (1) by striking “The” and inserting the follow-  
5       ing: “(1) Except as provided in paragraph (2), the”;  
6       and

7               (2) by adding at the end the following:

8       “(2)(A) An application for asylum filed for the first  
9       time during an exclusion or deportation proceeding shall  
10       not be considered if the proceeding was commenced more  
11       than one year after the alien’s entry or admission into the  
12       United States.

13       “(B) An application for asylum may be considered,  
14       notwithstanding subparagraph (A), if the applicant shows  
15       good cause for not having filed within the specified period  
16       of time.”.

17       (b) As used in this section, “good cause” may include,  
18       but is not limited to, circumstances that changed after the  
19       applicant entered the United States and that are relevant  
20       to the applicant’s eligibility for asylum; physical or mental  
21       disability; threats of retribution against the applicant’s rel-  
22       atives abroad; attempts to file affirmatively that were suc-  
23       cessful because of technical defects; efforts to seek asylum  
24       that were delayed by the temporary unavailability of pro-  
25       fessional assistance; the illness or death of the applicant’s

1 *legal representative; or other extenuating circumstances as*  
2 *determined by the Attorney General.*

3 **SEC. 194. LIMITATION ON WORK AUTHORIZATION FOR ASY-**  
4 **LUM APPLICANTS.**

5 *Section 208 (8 U.S.C. 1158), as amended by this Act,*  
6 *is further amended by adding at the end the following new*  
7 *subsection:*

8 “(f)(1) *An applicant for asylum may not engage in*  
9 *employment in the United States unless such applicant has*  
10 *submitted an application for employment authorization to*  
11 *the Attorney General and, subject to paragraph (2), the At-*  
12 *torney General has granted such authorization.*

13 “(2) *The Attorney General may deny any application*  
14 *for, or suspend or place conditions on any grant of, author-*  
15 *ization for any applicant for asylum to engage in employ-*  
16 *ment in the United States.”.*

17 **SEC. 195. INCREASED RESOURCES FOR REDUCING ASYLUM**  
18 **APPLICATION BACKLOGS.**

19 (a) *PURPOSE AND PERIOD OF AUTHORIZATION.—For*  
20 *the purpose of reducing the number of applications pending*  
21 *under sections 208 and 243(h) of the Immigration and Na-*  
22 *tionality Act (8 U.S.C. 1158 and 1253) as of the date of*  
23 *the enactment of this Act, the Attorney General shall have*  
24 *the authority described in subsection (b) for a period of two*

1 *years, beginning 90 days after the date of the enactment*  
 2 *of this Act.*

3       (b) *PROCEDURES FOR PROPERTY ACQUISITION ON*  
 4 *LEASING.*—*Notwithstanding the Federal Property and Ad-*  
 5 *ministrative Services Act of 1949 (40 U.S.C. 471 et seq.),*  
 6 *the Attorney General is authorized to expend out of funds*  
 7 *made available to the Department of Justice for the admin-*  
 8 *istration of the Immigration and Nationality Act such*  
 9 *amounts as may be necessary for the leasing or acquisition*  
 10 *of property to carry out the purpose described in subsection*  
 11 *(a).*

12               **PART 3—CUBAN ADJUSTMENT ACT**

13       **SEC. 196. REPEAL AND EXCEPTION.**

14       (a) *REPEAL.*—*Subject to subsection (b), Public Law*  
 15 *89–732, as amended, is hereby repealed.*

16       (b) *Notwithstanding any other provision of this Act,*  
 17 *the repeal of Public Law 89–732 made by this Act shall*  
 18 *become effective only upon a determination by the President*  
 19 *under section 203(c)(3) of the Cuban Liberty and Demo-*  
 20 *cratic Solidarity (LIBERTAD) Act of 1996 that a demo-*  
 21 *cratically elected government in Cuba is in power.*

1           ***Subtitle C—Effective Dates***

2   ***SEC. 197. EFFECTIVE DATES.***

3           *Except as otherwise provided in this title, and the*  
 4   *amendments made by this title, shall take effect on the date*  
 5   *of the enactment of this Act.*

6                   ***TITLE II—FINANCIAL***  
 7                   ***RESPONSIBILITY***

8           ***Subtitle A—Receipt of Certain***  
 9           ***Government Benefits***

10 ***SEC. 201. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE,***  
 11 ***AND NONIMMIGRANT ALIENS.***

12           *(a) PUBLIC ASSISTANCE AND BENEFITS.—*

13                   *(1) IN GENERAL.—Notwithstanding any other*  
 14   *provision of law, an ineligible alien (as defined in*  
 15   *subsection (f)(2)) shall not be eligible to receive—*

16                           *(A) any benefits under a public assistance*  
 17   *program (as defined in subsection (f)(3)), ex-*  
 18   *cept—*

19                                   *(i) emergency medical services under*  
 20   *title XIX of the Social Security Act,*

21                                   *(ii) subject to paragraph (4), prenatal*  
 22   *and postpartum services under title XIX of*  
 23   *the Social Security Act,*

24                                   *(iii) short-term emergency disaster re-*  
 25   *lief,*

1                   (iv) assistance or benefits under—

2                         (I) the National School Lunch Act  
3                         (42 U.S.C. 1751 et seq.),

4                         (II) the Child Nutrition Act of  
5                         1966 (42 U.S.C. 1771 et seq.),

6                         (III) section 4 of the Agriculture  
7                         and Consumer Protection Act of 1973  
8                         (Public Law 93–86; 7 U.S.C. 612c  
9                         note),

10                        (IV) the Emergency Food Assist-  
11                        ance Act of 1983 (Public Law 98–8; 7  
12                        U.S.C. 612c note),

13                        (V) section 110 of the Hunger  
14                        Prevention Act of 1988 (Public Law  
15                        100–435; 7 U.S.C. 612c note), and

16                        (VI) the food distribution program  
17                        on Indian reservations established  
18                        under section 4(b) of Public Law 88–  
19                        525 (7 U.S.C. 2013(b)),

20                        (v) public health assistance for immu-  
21                        nizations and, if the Secretary of Health  
22                        and Human Services determines that it is  
23                        necessary to prevent the spread of a serious  
24                        communicable disease, for testing and treat-  
25                        ment for such diseases, and



1           (vi) *such other service or assistance*  
2           *(such as soup kitchens, crisis counseling,*  
3           *intervention (including intervention for do-*  
4           *mestic violence), and short-term shelter) as*  
5           *the Attorney General specifies, in the Attor-*  
6           *ney General's sole and unreviewable discre-*  
7           *tion, after consultation with the heads of*  
8           *appropriate Federal agencies, if—*

9                   (I) *such service or assistance is*  
10                  *delivered at the community level, in-*  
11                  *cluding through public or private non-*  
12                  *profit agencies;*

13                  (II) *such service or assistance is*  
14                  *necessary for the protection of life, safe-*  
15                  *ty, or public health; and*

16                  (III) *such service or assistance or*  
17                  *the amount or cost of such service or*  
18                  *assistance is not conditioned on the re-*  
19                  *cipient's income or resources; or*

20           (B) *any grant, contract, loan, professional*  
21           *license, or commercial license provided or funded*  
22           *by any agency of the United States or any State*  
23           *or local government entity, except—*

1           “(i) if the alien is a nonimmigrant  
2           alien authorized to work in the United  
3           States—

4                   “(I) any professional or commer-  
5                   cial license required to engage in such  
6                   work, if the nonimmigrant is otherwise  
7                   qualified for such license; or

8                   “(II) any contract provided or  
9                   funded by such an agency or entity; or

10                  “(ii) if the alien is an alien who is  
11                  outside of the United States, any contract  
12                  provided or funded by such an agency or  
13                  entity.”.

14           (2) *BENEFITS OF RESIDENCE.*—Notwithstanding  
15           any other provision of law, no State or local govern-  
16           ment entity shall consider any ineligible alien as a  
17           resident when to do so would place such alien in a  
18           more favorable position, regarding access to, or the  
19           cost of, any benefit or government service, except ele-  
20           mentary or secondary education, than a United  
21           States citizen who is not regarded as such a resident.

22           (3) *NOTIFICATION OF ALIENS.*—

23                   (A) *IN GENERAL.*—The agency administer-  
24                   ing a program referred to in paragraph (1)(A)  
25                   or providing benefits referred to in paragraph

1       (1)(B) shall, directly or, in the case of a Federal  
2       agency, through the States, notify individually  
3       or by public notice, all ineligible aliens who are  
4       receiving benefits under a program referred to in  
5       paragraph (1)(A), or are receiving benefits re-  
6       ferred to in paragraph (1)(B), as the case may  
7       be, immediately prior to the date of the enact-  
8       ment of this Act and whose eligibility for the  
9       program is terminated by reason of this sub-  
10      section.

11               (B) *FAILURE TO GIVE NOTICE.*—Nothing in  
12      subparagraph (A) shall be construed to require  
13      or authorize continuation of such eligibility if  
14      the notice required by such paragraph is not  
15      given.

16               (4) *LIMITATION ON PREGNANCY SERVICES FOR*  
17      *UNDOCUMENTED ALIENS.*—

18               (A) *3-YEAR CONTINUOUS RESIDENCE.*—An  
19      ineligible alien may not receive the services de-  
20      scribed in paragraph (1)(A)(ii) unless such alien  
21      can establish proof of continuous residence in the  
22      United States for not less than 3 years, as deter-  
23      mined in accordance with section 245a.2(d)(3) of  
24      title 8, Code of Federal Regulations as in effect

1           *on the day before the date of the enactment of*  
2           *this Act.*

3           (B) *LIMITATION ON EXPENDITURES.*—Not  
4           more than \$120,000,000 in outlays may be ex-  
5           pended under title XIX of the Social Security  
6           Act for reimbursement of services described in  
7           paragraph (1)(A)(ii) that are provided to indi-  
8           viduals described in subparagraph (A).

9           (C) *CONTINUED SERVICES BY CURRENT*  
10          *STATES.*—States that have provided services de-  
11          scribed in paragraph (1)(A)(ii) for a period of 3  
12          years before the date of the enactment of this Act  
13          shall continue to provide such services and shall  
14          be reimbursed by the Federal Government for the  
15          costs incurred in providing such services. States  
16          that have not provided such services before the  
17          date of the enactment of this Act, but elect to  
18          provide such services after such date, shall be re-  
19          imbursed for the costs incurred in providing such  
20          services. In no case shall States be required to  
21          provide services in excess of the amounts pro-  
22          vided in subparagraph (B).

23          (b) *UNEMPLOYMENT BENEFITS.*—Notwithstanding  
24          any other provision of law, only eligible aliens who have  
25          been granted employment authorization pursuant to Fed-

1 eral law, and United States citizens or nationals, may re-  
 2 ceive unemployment benefits payable out of Federal funds,  
 3 and such eligible aliens may receive only the portion of such  
 4 benefits which is attributable to the authorized employment.

5 (c) SOCIAL SECURITY BENEFITS.—(1) Section 202 of  
 6 the Social Security Act (42 U.S.C. 402) is amended by add-  
 7 ing at the end the following new subsection:

8 “Limitation on Payments to Aliens

9 “(y)(1) Notwithstanding any other provision of law  
 10 and except as provided in paragraph (2), no monthly bene-  
 11 fit under this title shall be payable to any alien in the Unit-  
 12 ed States for any month during which such alien is not  
 13 lawfully present in the United States as determined by the  
 14 Attorney General.

15 “(2) Paragraph (1) shall not apply in any case where  
 16 entitlement to such benefit is based on an application filed  
 17 before the date of the enactment of this subsection.”.

18 (2) Nothing in this subsection (c) shall affect any obli-  
 19 gation or liability of any individual or employer under title  
 20 21 of subtitle C of the Internal Revenue Code.

21 (3) No more than eighteen months following enactment  
 22 of this Act, the Comptroller General is directed to conduct  
 23 and complete a study of whether, and to what extent, indi-  
 24 viduals who are not authorized to work in the United States

1 *are qualifying for Old Age, Survivors, and Disability In-*  
 2 *surance (OASDI) benefits based on their earnings record.*

3 *(d) HOUSING ASSISTANCE PROGRAMS.—Not later than*  
 4 *90 days after the date of the enactment of this Act, the Sec-*  
 5 *retary of Housing and Urban Development shall submit a*  
 6 *report to the Committee on the Judiciary and the Commit-*  
 7 *tee on Banking, Housing, and Urban Affairs of the Senate,*  
 8 *and the Committee on the Judiciary and the Committee on*  
 9 *Banking and Financial Services of the House of Represent-*  
 10 *atives, describing the manner in which the Secretary is en-*  
 11 *forcing section 214 of the Housing and Community Devel-*  
 12 *opment Act of 1980 (Public Law 96–399; 94 Stat. 1637)*  
 13 *and containing statistics with respect to the number of indi-*  
 14 *viduals denied financial assistance under such section.*

15 *(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—*

16 *(1) IN GENERAL.—Nothing in this Act shall be*  
 17 *construed as requiring a nonprofit charitable organi-*  
 18 *zation operating any program of assistance provided*  
 19 *or funded, in whole or in part, by the Federal Gov-*  
 20 *ernment to—*

21 *(A) determine, verify, or otherwise require*  
 22 *proof of the eligibility, as determined under this*  
 23 *title, of any applicant for benefits or assistance*  
 24 *under such program; or*

1           (B) deem that the income or assets of any  
 2           applicant for benefits or assistance under such  
 3           program include the income or assets described  
 4           in section 204(b).

5           (2) NO EFFECT ON FEDERAL AUTHORITY TO DE-  
 6           TERMINE COMPLIANCE.—Nothing in this subsection  
 7           shall be construed as prohibiting the Federal Govern-  
 8           ment from determining the eligibility, under this sec-  
 9           tion or section 204, of any individual for benefits  
 10          under a public assistance program (as defined in sub-  
 11          section (f)(3)) or for government benefits (as defined  
 12          in subsection (f)(4)).

13          (f) DEFINITIONS.—For the purposes of this section—

14           (1) ELIGIBLE ALIEN.—The term “eligible alien”  
 15          means an individual who is—

16           (A) an alien lawfully admitted for perma-  
 17          nent residence under the Immigration and Na-  
 18          tionality Act,

19           (B) an alien granted asylum under section  
 20          208 of such Act,

21           (C) a refugee admitted under section 207 of  
 22          such Act,

23           (D) an alien whose deportation has been  
 24          withheld under section 243(h) of such Act,

1           (E) an alien paroled into the United States  
2           under section 212(d)(5) of such Act for a period  
3           of at least 1 year, or

4           (F) an alien who—

5                 (i) has been battered or subjected to ex-  
6                 treme cruelty in the United States by a  
7                 spouse or a parent, or by a member of the  
8                 spouse or parent's family residing in the  
9                 same household as the alien and the spouse  
10                or parent consented or acquiesced to such  
11                battery or cruelty; and

12               (ii) has petitioned (or petitions within  
13               45 days after the first application for  
14               means-tested government assistance under  
15               SSI, AFDC, social services block grants;  
16               Medicaid, food stamps, or housing assist-  
17               ance) for—

18               (I) status as a spouse or a child  
19               of a United States citizen pursuant to  
20               clause (ii), (iii), or (iv) of section  
21               204(a)(1)(A) of the Immigration and  
22               Nationality Act,

23               (II) classification pursuant to  
24               clause (ii) or (iii) of section  
25               204(a)(1)(B) of the Act, or



1                   (III) suspension of deportation  
2                   and adjustment of status pursuant to  
3                   section 244(a)(3) of such Act, or

4                   (iii) is the beneficiary of a petition for  
5                   status as a spouse or child of a United  
6                   States citizen pursuant to clause (i) of sec-  
7                   tion 204(a)(1)(A) of the Immigration and  
8                   Nationality Act, or of a petition filed for  
9                   classification pursuant to clause (i) of sec-  
10                  tion 204(a)(1)(B) of such Act; or

11                  (G) an alien whose child—

12                   (i) has been battered or subjected to ex-  
13                   treme cruelty in the United States by a  
14                   spouse or a parent of the alien (without the  
15                   active participation of the alien in the bat-  
16                   tery or extreme cruelty), or by a member of  
17                   the spouse or parent's family residing in the  
18                   same household as the alien and the spouse  
19                   or parent consented or acquiesced to such  
20                   battery or cruelty, and the alien did not ac-  
21                   tively participate in such battery or cruelty;  
22                   and

23                   (ii) has petitioned (or petitions within  
24                   45 days after the first application for as-

1                    *sistance from a means-tested government as-*  
2                    *sistance program) for—*

3                    (I) *status as a spouse or a child*  
4                    *of a United States citizen pursuant to*  
5                    *clause (ii), (iii), or (iv) of section*  
6                    *204(a)(1)(A) of the Immigration and*  
7                    *Nationality Act,*

8                    (II) *classification pursuant to*  
9                    *clause (ii) or (iii) of section*  
10                   *204(a)(1)(B) of the Act, or*

11                   (III) *suspension of deportation*  
12                   *and adjustment of status pursuant to*  
13                   *section 244(a)(3) of such Act, or*

14                   (iii) *is the beneficiary of a petition for*  
15                   *status as a spouse or child of a United*  
16                   *States citizen pursuant to clause (i) of sec-*  
17                   *tion 204(a)(1)(A) of the Immigration and*  
18                   *Nationality Act, or of a petition filed for*  
19                   *classification.*

20                   (2) *INELIGIBLE ALIEN.—The term “ineligible*  
21                   *alien” means an individual who is not—*

22                   (A) *a United States citizen or national; or*  
23                   (B) *an eligible alien.*

24                   (3) *PUBLIC ASSISTANCE PROGRAM.—The term*  
25                   *“public assistance program” means any program of*

1       *assistance provided or funded, in whole or in part, by*  
2       *the Federal Government or any State or local govern-*  
3       *ment entity, for which eligibility for benefits is based*  
4       *on need.*

5               (4) *GOVERNMENT BENEFITS.—The term “govern-*  
6       *ment benefits” includes—*

7                       (A) *any grant, contract, loan, professional*  
8                       *license, or commercial license provided or funded*  
9                       *by any agency of the United States or any State*  
10                      *or local government entity, except—*

11                               (i) *if the alien is a nonimmigrant*  
12                               *alien authorized to work in the United*  
13                               *States—*

14                                       (I) *any professional or commer-*  
15                                       *cial license required to engage in such*  
16                                       *work, if the nonimmigrant is otherwise*  
17                                       *qualified for such license; or*

18                                       (II) *any contract provided or*  
19                                       *funded by such an agency or entity; or*

20                               (ii) *if the alien is an alien who is out-*  
21                               *side of the United States, any contract pro-*  
22                               *vided or funded by such an agency or en-*  
23                               *tity.*

24                       (B) *unemployment benefits payable out of*  
25       *Federal funds;*

1           (C) benefits under title II of the Social Se-  
2           curity Act;

3           (D) financial assistance for purposes of sec-  
4           tion 214(a) of the Housing and Community De-  
5           velopment Act of 1980 (Public Law 96–399; 94  
6           Stat. 1637); and

7           (E) benefits based on residence that are pro-  
8           hibited by subsection (a)(2).

9   **SEC. 202. DEFINITION OF “PUBLIC CHARGE” FOR PURPOSES**  
10           **OF DEPORTATION.**

11       (a) *IN GENERAL.*—Section 241(a)(5) (8 U.S.C.  
12   1251(a)(5)) is amended to read as follows:

13           “(5) *PUBLIC CHARGE.*—

14               “(A) *IN GENERAL.*—Except as provided in  
15               subparagraphs (B) and (E), any alien who dur-  
16               ing the public charge period becomes a public  
17               charge, regardless of when the cause for becoming  
18               a public charge arises, is deportable for a period  
19               of five years after the immigrant last receives a  
20               benefit during the public charge period under  
21               any of the programs described in subparagraph  
22               (D).

23               “(B) *EXCEPTIONS.*—Subparagraph (A)  
24               shall not apply if the alien is a refugee or has

1        *been granted asylum, or if the cause of the*  
2        *alien's becoming a public charge—*

3                *“(i) arose after entry (in the case of an*  
4                *alien who entered as an immigrant) or after*  
5                *adjustment to lawful permanent resident*  
6                *status (in the case of an alien who entered*  
7                *as a nonimmigrant), and*

8                *“(ii) was a physical illness, or physical*  
9                *injury, so serious the alien could not work*  
10               *at any job, or a mental disability that re-*  
11               *quired continuous hospitalization.*

12               *“(C) DEFINITIONS.—*

13               *“(i) PUBLIC CHARGE PERIOD.—For*  
14               *purposes of subparagraph (A), the term*  
15               *‘public charge period’ means the period be-*  
16               *ginning on the date the alien entered the*  
17               *United States and ending—*

18               *“(I) for an alien who entered the*  
19               *United States as an immigrant, 5*  
20               *years after entry, or*

21               *“(II) for an alien who entered the*  
22               *United States as a nonimmigrant, 5*  
23               *years after the alien adjusted to per-*  
24               *manent resident status.*

1           “(ii) *PUBLIC CHARGE.*—For purposes  
2           of subparagraph (A), the term ‘public  
3           charge’ includes any alien who receives ben-  
4           efits under any program described in sub-  
5           paragraph (D) for an aggregate period of  
6           more than 12 months.

7           “(D) *PROGRAMS DESCRIBED.*—The pro-  
8           grams described in this subparagraph are the fol-  
9           lowing:

10           “(i) *The aid to families with dependent*  
11           *children program under title IV of the So-*  
12           *cial Security Act.*

13           “(ii) *The medicaid program under title*  
14           *XIX of the Social Security Act.*

15           “(iii) *The food stamp program under*  
16           *the Food Stamp Act of 1977.*

17           “(iv) *The supplemental security in-*  
18           *come program under title XVI of the Social*  
19           *Security Act.*

20           “(v) *Any State general assistance pro-*  
21           *gram.*

22           “(vi) *Any other program of assistance*  
23           *funded, in whole or in part, by the Federal*  
24           *Government or any State or local govern-*  
25           *ment entity, for which eligibility for benefits*

1           is based on need, except the programs listed  
2           as exceptions in clauses (i) through (vi) of  
3           section 201(a)(1)(A) of the Immigration Re-  
4           form Act of 1996 or any student assistance  
5           received or approved for receipt under title  
6           IV, V, IX, or X of the Higher Education Act  
7           of 1965 in an academic year which ends or  
8           begins in the calendar year in which this  
9           Act is enacted until the matriculation of  
10          their education.

11           “(E) SPECIAL RULE FOR BATTERED WOMEN  
12          AND CHILDREN.—(i) For purposes of any deter-  
13          mination under subparagraph (A), and except as  
14          provided under clause (ii), the aggregate period  
15          shall be 48 months within the first 7 years of  
16          entry if the alien can demonstrate that (I) the  
17          alien has been battered or subjected to extreme  
18          cruelty in the United States by a spouse or a  
19          parent, or by a member of the spouse or parent’s  
20          family residing in the same household as the  
21          alien and the spouse or parent consented or ac-  
22          quiesced to such battery or cruelty, or (II) the  
23          alien’s child has been battered or subjected to ex-  
24          treme cruelty in the United States by a spouse  
25          or parent of the alien (without the active partici-

1        *pation of the alien in the battery or extreme cru-*  
2        *elty), or by a member of the spouse or parent's*  
3        *family residing in the same household as the*  
4        *alien when the spouse or parent consented or ac-*  
5        *quiesced to and the alien did not actively par-*  
6        *ticipate in such battery or cruelty, and the need*  
7        *for the public benefits received has a connection*  
8        *to the battery or cruelty described in subclause*  
9        *(I) or (II).*

10        *“(ii) For the purposes of a determination*  
11        *under subparagraph (A), the aggregate period*  
12        *may exceed 48 months within the first 7 years*  
13        *of entry if the alien can demonstrate that any*  
14        *battery or cruelty under clause (i) is ongoing,*  
15        *has led to the issuance of an order of a judge or*  
16        *an administrative law judge or a prior deter-*  
17        *mination of the Service, and that such battery or*  
18        *cruelty has a causal relationship to the need for*  
19        *the benefits received.pursuant to clause (i) of sec-*  
20        *tion 204(a)(1)(B) of such Act.”.*

21        *(b) CONSTRUCTION.—Nothing in subparagraph (B),*  
22        *(C), or (D) of section 241(a)(5) of the Immigration and*  
23        *Nationality Act, as amended by subsection (a), may be con-*  
24        *strued to affect or apply to any determination of an alien*



1 *as a public charge made before the date of the enactment*  
2 *of this Act.*

3 *(c) REVIEW OF STATUS.—*

4 *(1) IN GENERAL.—In reviewing any application*  
5 *by an alien for benefits under section 216, section*  
6 *245, or chapter 2 of title III of the Immigration and*  
7 *Nationality Act, the Attorney General shall determine*  
8 *whether or not the applicant is deportable under sec-*  
9 *tion 241(a)(5)(A) of such Act, as so amended.*

10 *(2) GROUNDS FOR DENIAL.—If the Attorney*  
11 *General determines that an alien is deportable under*  
12 *section 241(a)(5)(A) of the Immigration and Nation-*  
13 *ality Act, the Attorney General shall deny such appli-*  
14 *cation and shall institute deportation proceedings*  
15 *with respect to such alien, unless the Attorney Gen-*  
16 *eral exercises discretion to withhold or suspend depor-*  
17 *tation pursuant to any other section of such Act.*

18 *(d) EFFECTIVE DATE.—This section and the amend-*  
19 *ments made by this section shall apply to aliens who enter*  
20 *the United States on or after the date of the enactment of*  
21 *this Act and to aliens who entered as nonimmigrants before*  
22 *such date but adjust or apply to adjust their status after*  
23 *such date.*

1 **SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF**  
2 **SUPPORT.**

3       (a) *ENFORCEABILITY.*—(1) *No affidavit of support*  
4 *may be relied upon by the Attorney General or by any con-*  
5 *sular officer to establish that an alien is not excludable as*  
6 *a public charge under section 212(a)(4) of the Immigration*  
7 *and Nationality Act unless such affidavit is executed as a*  
8 *contract—*

9           (A) *which is legally enforceable against the spon-*  
10 *sor by the sponsored individual, by the Federal Gov-*  
11 *ernment, and by any State, district, territory, or pos-*  
12 *session of the United States (or any subdivision of*  
13 *such State, district, territory, or possession of the*  
14 *United States) which provides any benefit described*  
15 *in section 241(a)(5)(D), but not later than 10 years*  
16 *after the sponsored individual last receives any such*  
17 *benefit;*

18           (B) *in which the sponsor agrees to financially*  
19 *support the sponsored individual, so that he or she*  
20 *will not become a public charge, until the sponsored*  
21 *individual has worked in the United States for 40*  
22 *qualifying quarters; and*

23           (C) *in which the sponsor agrees to submit to the*  
24 *jurisdiction of any Federal or State court for the pur-*  
25 *pose of actions brought under subsection (d) or (e).*

1       (2) *In determining the number of qualifying quarters*  
 2 *for which a sponsored individual has worked for purposes*  
 3 *of paragraph (1)(B), an individual not meeting the require-*  
 4 *ments of subparagraphs (A) or (C) of subsection (f)(3) for*  
 5 *any quarter shall be treated as meeting such requirements*  
 6 *if—*

7               (A) *their spouse met such requirements for such*  
 8 *quarter and they filed a joint income tax return cov-*  
 9 *ering such quarter; or*

10              (B) *the individual who claimed such individual*  
 11 *as a dependent on an income tax return covering such*  
 12 *quarter met such requirements for such quarter.*

13       (b) *FORMS.—Not later than 90 days after the date of*  
 14 *the enactment of this Act, the Secretary of State, the Attor-*  
 15 *ney General, and the Secretary of Health and Human Serv-*  
 16 *ices shall jointly formulate the affidavit of support described*  
 17 *in this section.*

18       (c) *NOTIFICATION OF CHANGE OF ADDRESS.—*

19              (1) *GENERAL REQUIREMENT.—The sponsor shall*  
 20 *notify the Attorney General and the State, district,*  
 21 *territory, or possession in which the sponsored indi-*  
 22 *vidual is currently a resident within 30 days of any*  
 23 *change of address of the sponsor during the period*  
 24 *specified in subsection (a)(1).*

1           (2) *PENALTY.*—Any person subject to the re-  
 2           quirement of paragraph (1) who fails to satisfy such  
 3           requirement shall, after notice and opportunity to be  
 4           heard, be subject to a civil penalty of—

5                     (A) not less than \$250 or more than \$2,000,

6                     or

7                     (B) if such failure occurs with knowledge  
 8                     that the sponsored individual has received any  
 9                     benefit described in section 241(a)(5)(D) of the  
 10                    Immigration and Nationality Act, as amended  
 11                    by section 202(a) of this Act, not less than  
 12                    \$2,000 or more than \$5,000.

13          (d) *REIMBURSEMENT OF GOVERNMENT EXPENSES.*—

14               (1) *IN GENERAL.*—

15                   (A) *REQUEST FOR REIMBURSEMENT.*—

16                   Upon notification that a sponsored individual  
 17                   has received any benefit described in section  
 18                   241(a)(5)(D) of the Immigration and National-  
 19                   ity Act, as amended by section 202(a) of this  
 20                   Act, the appropriate Federal, State, or local offi-  
 21                   cial shall request reimbursement from the spon-  
 22                   sor for the amount of such assistance.

23                   (B) *REGULATIONS.*—The Commissioner of  
 24                   Social Security shall prescribe such regulations  
 25                   as may be necessary to carry out subparagraph

1           (A). *Such regulations shall provide that notifica-*  
2           *tion be sent to the sponsor's last known address*  
3           *by certified mail.*

4           (2) *ACTION AGAINST SPONSOR.—If within 45*  
5           *days after requesting reimbursement, the appropriate*  
6           *Federal, State, or local agency has not received a re-*  
7           *sponse from the sponsor indicating a willingness to*  
8           *make payments, an action may be brought against*  
9           *the sponsor pursuant to the affidavit of support.*

10          (3) *FAILURE TO MEET REPAYMENT TERMS.—If*  
11          *the sponsor agrees to make payments, but fails to*  
12          *abide by the repayment terms established by the agen-*  
13          *cy, the agency may, within 60 days of such failure,*  
14          *bring an action against the sponsor pursuant to the*  
15          *affidavit of support.*

16          (e) *JURISDICTION.—*

17               (1) *IN GENERAL.—An action to enforce an affi-*  
18               *davit of support executed under subsection (a) may be*  
19               *brought against the sponsor in any appropriate*  
20               *court—*

21                       (A) *by a sponsored individual, with respect*  
22                       *to financial support; or*

23                       (B) *by a Federal, State, or local agency,*  
24                       *with respect to reimbursement.*

1           (2) *COURT MAY NOT DECLINE TO HEAR CASE.*—

2           *For purposes of this section, no appropriate court*  
3           *shall decline for lack of subject matter or personal ju-*  
4           *risdiction to hear any action brought against a spon-*  
5           *sor under paragraph (1) if—*

6                     *(A) the sponsored individual is a resident of*  
7                     *the State in which the court is located, or re-*  
8                     *ceived public assistance while residing in the*  
9                     *State; and*

10                    *(B) such sponsor has received service of*  
11                    *process in accordance with applicable law.*

12           (f) *DEFINITIONS.*—*For purposes of this section—*

13                    (1) *SPONSOR.*—*The term “sponsor” means an*  
14                    *individual who—*

15                             *(A) is a United States citizen or national*  
16                             *or an alien who is lawfully admitted to the*  
17                             *United States for permanent residence;*

18                             *(B) is at least 18 years of age;*

19                             *(C) is domiciled in any of the several States*  
20                             *of the United States, the District of Columbia, or*  
21                             *any territory or possession of the United States;*  
22                             *and*

23                             *(D) demonstrates the means to maintain an*  
24                             *annual income equal to at least 125 percent of*  
25                             *the Federal poverty line for the individual and*

1        *the individual's family (including the sponsored*  
2        *alien and any other alien sponsored by the indi-*  
3        *vidual), through evidence that includes a copy of*  
4        *the individual's Federal income tax return for*  
5        *the 3 most recent taxable years (which returns*  
6        *need show such level of annual income only in*  
7        *the most recent taxable year) and a written*  
8        *statement, executed under oath or as permitted*  
9        *under penalty of perjury under section 1746 of*  
10       *title 28, United States Code, that the copies are*  
11       *true copies of such returns.*

12       *In the case of an individual who is on active duty*  
13       *(other than active duty for training) in the Armed*  
14       *Forces of the United States, subparagraph (D) shall*  
15       *be applied by substituting "100 percent" for "125*  
16       *percent".*

17       (2) *FEDERAL POVERTY LINE.—The term "Fed-*  
18       *eral poverty line" means the level of income equal to*  
19       *the official poverty line (as defined by the Director of*  
20       *the Office of Management and Budget, as revised an-*  
21       *nually by the Secretary of Health and Human Serv-*  
22       *ices, in accordance with section 673(2) of the Omni-*  
23       *buss Budget Reconciliation Act of 1981 (42 U.S.C.*  
24       *9902)) that is applicable to a family of the size in-*  
25       *volved.*

1           (3) *QUALIFYING QUARTER.*—*The term “qualify-*  
2           *ing quarter” means a three-month period in which*  
3           *the sponsored individual has—*

4                   (A) *earned at least the minimum necessary*  
5                   *for the period to count as one of the 40 quarters*  
6                   *required to qualify for social security retirement*  
7                   *benefits;*

8                   (B) *not received need-based public assist-*  
9                   *ance; and*

10                  (C) *had income tax liability for the tax*  
11                  *year of which the period was part.*

12           (4) *APPROPRIATE COURT.*—*The term “appro-*  
13           *priate court” means—*

14                   (A) *a Federal court, in the case of an*  
15                   *action for reimbursement of benefits pro-*  
16                   *vided or funded, in whole or in part, by the*  
17                   *Federal Government; and*

18                   (B) *a State court, in the case of an ac-*  
19                   *tion for reimbursement of benefits provided*  
20                   *under a State or local program of assist-*  
21                   *ance.*

22           (g) *SPONSOR’S SOCIAL SECURITY ACCOUNT NUMBER*  
23           *REQUIRED TO BE PROVIDED.*—(1) *Each affidavit of sup-*  
24           *port shall include the social security account number of the*  
25           *sponsor.*



1       (2) *The Attorney General shall develop an automated*  
 2 *system to maintain the data of social security account num-*  
 3 *bers provided under paragraph (1).*

4       (3) *The Attorney General shall submit an annual re-*  
 5 *port to the Congress setting forth for the most recent fiscal*  
 6 *year for which data are available—*

7           (A) *the number of sponsors under this section*  
 8 *and the number of sponsors in compliance with the*  
 9 *financial obligations of this section; and*

10          (B) *a comparison of the data set forth under sub-*  
 11 *paragraph (A) with similar data for the preceding*  
 12 *fiscal year.*

13 **SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RE-**  
 14 **SOURCES TO FAMILY-SPONSORED IMMI-**  
 15 **GRANTS.**

16       (a) *DEEMING REQUIREMENT FOR FEDERAL AND FED-*  
 17 *ERALLY FUNDED PROGRAMS.—Subject to subsection (d), for*  
 18 *purposes of determining the eligibility of an alien for bene-*  
 19 *fits, and the amount of benefits, under any Federal program*  
 20 *of assistance, or any program of assistance funded in whole*  
 21 *or in part by the Federal Government, for which eligibility*  
 22 *for benefits is based on need, the income and resources de-*  
 23 *scribed in subsection (b) shall, notwithstanding any other*  
 24 *provision of law, except as provided in section 204(f), be*  
 25 *deemed to be the income and resources of such alien.*

1       (b) *DEEMED INCOME AND RESOURCES.*—*The income*  
2 *and resources described in this subsection include the in-*  
3 *come and resources of—*

4           (1) *any person who, as a sponsor of an alien’s*  
5 *entry into the United States, or in order to enable an*  
6 *alien lawfully to remain in the United States, exe-*  
7 *cuted an affidavit of support or similar agreement*  
8 *with respect to such alien, and*

9           (2) *the sponsor’s spouse.*

10       (c) *LENGTH OF DEEMING PERIOD.*—*The requirement*  
11 *of subsection (a) shall apply for the period for which the*  
12 *sponsor has agreed, in such affidavit or agreement, to pro-*  
13 *vide support for such alien, or for a period of 5 years begin-*  
14 *ning on the day such alien was first lawfully in the United*  
15 *States after the execution of such affidavit or agreement,*  
16 *whichever period is longer.*

17       (d) *EXCEPTIONS.*—

18           (1) *INDIGENCE.*—

19               (A) *IN GENERAL.*—*If a determination de-*  
20 *scribed in subparagraph (B) is made, the*  
21 *amount of income and resources of the sponsor or*  
22 *the sponsor’s spouse which shall be attributed to*  
23 *the sponsored alien shall not exceed the amount*  
24 *actually provided for a period—*

1           (i) beginning on the date of such deter-  
2           mination and ending 12 months after such  
3           date, or

4           (ii) if the address of the sponsor is un-  
5           known to the sponsored alien, beginning on  
6           the date of such determination and ending  
7           on the date that is 12 months after the ad-  
8           dress of the sponsor becomes known to the  
9           sponsored alien or to the agency (which  
10          shall inform such alien of the address with-  
11          in 7 days).

12          (B) DETERMINATION DESCRIBED.—A deter-  
13          mination described in this subparagraph is a de-  
14          termination by an agency that a sponsored alien  
15          would, in the absence of the assistance provided  
16          by the agency, be unable to obtain food and shel-  
17          ter, taking into account the alien's own income,  
18          plus any cash, food, housing, or other assistance  
19          provided by other individuals, including the  
20          sponsor.

21          (2) EDUCATION ASSISTANCE.—

22                (A) IN GENERAL.—The requirements of sub-  
23                section (a) shall not apply with respect to spon-  
24                sored aliens who have received, or have been ap-  
25                proved to receive, student assistance under title

1           *IV, V, IX, or X of the Higher Education Act of*  
2           *1965 in an academic year which ends or begins*  
3           *in the calendar year in which this Act is en-*  
4           *acted.*

5           *(B) DURATION.—The exception described in*  
6           *subparagraph (A) shall apply only for the period*  
7           *normally required to complete the course of study*  
8           *for which the sponsored alien receives assistance*  
9           *described in that subparagraph.*

10          *(3) CERTAIN SERVICES AND ASSISTANCE.—The*  
11          *requirements of subsection (a) shall not apply to any*  
12          *service or assistance described in clause (iv) or (vi) of*  
13          *section 201(a)(1)(A).*

14          *(e) DEEMING AUTHORITY TO STATE AND LOCAL AGEN-*  
15          *CIES.—*

16          *(1) IN GENERAL.—Notwithstanding any other*  
17          *provision of law, but subject to exceptions equivalent*  
18          *to the exceptions described in subsection (d), the State*  
19          *or local government may, for purposes of determining*  
20          *the eligibility of an alien for benefits, and the amount*  
21          *of benefits, under any State or local program of as-*  
22          *sistance for which eligibility is based on need, or any*  
23          *need-based program of assistance administered by a*  
24          *State or local government (other than a program of*  
25          *assistance provided or funded, in whole or in part, by*

1       *the Federal Government), require that the income and*  
2       *resources described in subsection (b) be deemed to be*  
3       *the income and resources of such alien.*

4               (2) *LENGTH OF DEEMING PERIOD.*—Subject to  
5       *exceptions equivalent to the exceptions described in*  
6       *subsection (d), a State or local government may im-*  
7       *pose the requirement described in paragraph (1) for*  
8       *the period for which the sponsor has agreed, in such*  
9       *affidavit or agreement, to provide support for such*  
10       *alien, or for a period of 5 years beginning on the day*  
11       *such alien was first lawfully in the United States*  
12       *after the execution of such affidavit or agreement,*  
13       *whichever period is longer.*

14       (f) *SPECIAL RULE FOR BATTERED WOMEN AND CHIL-*  
15       *DREN.*—Notwithstanding any other provision of law, sub-  
16       *section (a) shall not apply—*

17               (1) *for up to 48 months if the alien can dem-*  
18       *onstrate that (A) the alien has been battered or sub-*  
19       *jected to extreme cruelty in the United States by a*  
20       *spouse or a parent, or by a member of the spouse or*  
21       *parent's family residing in the same household as the*  
22       *alien and the spouse or parent consented to or acqui-*  
23       *esced to such battery or cruelty, or (B) the alien's*  
24       *child has been battered or subjected to extreme cruelty*  
25       *in the United States by the spouse or parent of the*

1        *alien (without the active participation of the alien in*  
2        *the battery or cruelty), or by a member of the spouse's*  
3        *or parent's family residing in the same household as*  
4        *the alien when the spouse or parent consented or ac-*  
5        *quiesced to and the alien did not actively participate*  
6        *in such battery or cruelty, and the battery or cruelty*  
7        *described in clause (i) or (ii) has a causal relation-*  
8        *ship to the need for the public benefits applied; and*  
9        *(2) for more than 48 months if the alien can*  
10       *demonstrate that such battery or cruelty under para-*  
11       *graph (1) is ongoing, has led to the issuance of an*  
12       *order of a judge or administrative law judge or a*  
13       *prior determination of the Service and that such bat-*  
14       *tery or cruelty has a causal relationship to the need*  
15       *for the benefits received.*

16    **SEC. 205. VERIFICATION OF STUDENT ELIGIBILITY FOR**  
17                    **POSTSECONDARY FEDERAL STUDENT FINAN-**  
18                    **CIAL ASSISTANCE.**

19        *(a) REPORT REQUIREMENT.—Not later than one year*  
20        *after the date of the enactment of this Act, the Secretary*  
21        *of Education and the Commissioner of Social Security shall*  
22        *jointly submit to the Congress a report on the computer*  
23        *matching program of the Department of Education under*  
24        *section 484(p) of the Higher Education Act of 1965.*

1       (b) *REPORT ELEMENTS.*—The report shall include the  
2 following:

3           (1) *An assessment by the Secretary and the Com-*  
4 *missioner of the effectiveness of the computer match-*  
5 *ing program, and a justification for such assessment.*

6           (2) *The ratio of inaccurate matches under the*  
7 *program to successful matches.*

8           (3) *Such other information as the Secretary and*  
9 *the Commissioner jointly consider appropriate.*

10 **SEC. 206. AUTHORITY OF STATES AND LOCALITIES TO**  
11 **LIMIT ASSISTANCE TO ALIENS AND TO DIS-**  
12 **TINGUISH AMONG CLASSES OF ALIENS IN**  
13 **PROVIDING GENERAL PUBLIC ASSISTANCE.**

14       (a) *IN GENERAL.*—Subject to subsection (b) and not-  
15 withstanding any other provision of law, a State or local  
16 government may prohibit or otherwise limit or restrict the  
17 eligibility of aliens or classes of aliens for programs of gen-  
18 eral cash public assistance furnished under the law of the  
19 State or a political subdivision of a State.

20       (b) *LIMITATION.*—The authority provided for under  
21 subsection (a) may be exercised only to the extent that any  
22 prohibitions, limitations, or restrictions imposed by a State  
23 or local government are not more restrictive than the prohi-  
24 bitions, limitations, or restrictions imposed under com-  
25 parable Federal programs. For purposes of this section, at-

1 *tribution to an alien of a sponsor's income and resources*  
 2 *(as described in section 204(b)) for purposes of determining*  
 3 *eligibility for, and the amount of, benefits shall be consid-*  
 4 *ered less restrictive than a prohibition of eligibility for such*  
 5 *benefits.*

6 **SEC. 207. INCREASED MAXIMUM CRIMINAL PENALTIES FOR**  
 7 **FORGING OR COUNTERFEITING SEAL OF A**  
 8 **FEDERAL DEPARTMENT OR AGENCY TO FA-**  
 9 **CILITATE BENEFIT FRAUD BY AN UNLAWFUL**  
 10 **ALIEN.**

11 *Section 506 of title 18, United States Code, is amended*  
 12 *to read as follows:*

13 **“§ 506. Seals of departments or agencies**

14 **“(a) Whoever—**

15 **“(1) falsely makes, forges, counterfeits, mutilates,**  
 16 **or alters the seal of any department or agency of the**  
 17 **United States, or any facsimile thereof;**

18 **“(2) knowingly uses, affixes, or impresses any**  
 19 **such fraudulently made, forged, counterfeited, muti-**  
 20 **lated, or altered seal or facsimile thereof to or upon**  
 21 **any certificate, instrument, commission, document, or**  
 22 **paper of any description; or**

23 **“(3) with fraudulent intent, possesses, sells, offers**  
 24 **for sale, furnishes, offers to furnish, gives away, offers**  
 25 **to give away, transports, offers to transport, imports,**



1        *or offers to import any such seal or facsimile thereof,*  
2        *knowing the same to have been so falsely made,*  
3        *forged, counterfeited, mutilated, or altered,*  
4        *shall be fined under this title, or imprisoned not more than*  
5        *5 years, or both.*

6        *“(b) Notwithstanding subsection (a) or any other pro-*  
7        *vision of law, if a forged, counterfeited, mutilated, or altered*  
8        *seal of a department or agency of the United States, or any*  
9        *facsimile thereof, is—*

10        *“(1) so forged, counterfeited, mutilated, or al-*  
11        *tered;*

12        *“(2) used, affixed, or impressed to or upon any*  
13        *certificate, instrument, commission, document, or*  
14        *paper of any description; or*

15        *“(3) with fraudulent intent, possessed, sold, of-*  
16        *fered for sale, furnished, offered to furnish, given*  
17        *away, offered to give away, transported, offered to*  
18        *transport, imported, or offered to import,*

19        *with the intent or effect of facilitating an unlawful alien’s*  
20        *application for, or receipt of, a Federal benefit, the penalties*  
21        *which may be imposed for each offense under subsection (a)*  
22        *shall be two times the maximum fine, and 3 times the maxi-*  
23        *mum term of imprisonment, or both, that would otherwise*  
24        *be imposed for an offense under subsection (a).*

25        *“(c) For purposes of this section—*

1 “(1) the term ‘Federal benefit’ means—

2 “(A) the issuance of any grant, contract,  
3 loan, professional license, or commercial license  
4 provided by any agency of the United States or  
5 by appropriated funds of the United States; and

6 “(B) any retirement, welfare, Social Secu-  
7 rity, health (including treatment of an emer-  
8 gency medical condition in accordance with sec-  
9 tion 1903(v) of the Social Security Act (19  
10 U.S.C. 1396b(v))), disability, veterans, public  
11 housing, education, food stamps, or unemploy-  
12 ment benefit, or any similar benefit for which  
13 payments or assistance are provided by an agen-  
14 cy of the United States or by appropriated funds  
15 of the United States;

16 “(2) the term ‘unlawful alien’ means an individ-  
17 ual who is not—

18 “(A) a United States citizen or national;

19 “(B) an alien lawfully admitted for perma-  
20 nent residence under the Immigration and Na-  
21 tionality Act;

22 “(C) an alien granted asylum under section  
23 208 of such Act;

24 “(D) a refugee admitted under section 207  
25 of such Act;

1                   “(E) an alien whose deportation has been  
2                   withheld under section 243(h) of such Act; or

3                   “(F) an alien paroled into the United  
4                   States under section 215(d)(5) of such Act for a  
5                   period of at least 1 year; and

6                   “(3) each instance of forgery, counterfeiting, mu-  
7                   tilation, or alteration shall constitute a separate of-  
8                   fense under this section.”.

9   **SEC. 208. STATE OPTION UNDER THE MEDICAID PROGRAM**  
10                   **TO PLACE ANTI-FRAUD INVESTIGATORS IN**  
11                   **HOSPITALS.**

12           (a) *IN GENERAL.*—Section 1902(a) of the Social Secu-  
13   rity Act (42 U.S.C. 1396a(a)) is amended—

14                   (1) by striking “and” at the end of paragraph  
15                   (61);

16                   (2) by striking the period at the end of para-  
17                   graph (62) and inserting “; and”; and

18                   (3) by adding after paragraph (62) the following  
19                   new paragraph:

20                   “(63) in the case of a State that is certified by  
21                   the Attorney General as a high illegal immigration  
22                   State (as determined by the Attorney General), at the  
23                   election of the State, establish and operate a program  
24                   for the placement of anti-fraud investigators in State,  
25                   county, and private hospitals located in the State to

1       *verify the immigration status and income eligibility*  
 2       *of applicants for medical assistance under the State*  
 3       *plan prior to the furnishing of medical assistance.”.*

4       **(b) PAYMENT.**—*Section 1903 of the Social Security*  
 5       *Act (42 U.S.C. 1396b) is amended—*

6               *(1) by striking “plus” at the end of paragraph*  
 7       *(6);*

8               *(2) by striking the period at the end of para-*  
 9       *graph (7) and inserting “; plus”; and*

10              *(3) by adding at the end the following new para-*  
 11       *graph:*

12              *“(8) an amount equal to the Federal medical as-*  
 13       *sistance percentage (as defined in section 1905(b)) of*  
 14       *the total amount expended during such quarter which*  
 15       *is attributable to operating a program under section*  
 16       *1902(a)(63).”.*

17       **(c) EFFECTIVE DATE.**—*The amendments made by sub-*  
 18       *sections (a) and (b) shall take effect on the first day of the*  
 19       *first calendar quarter beginning after the date of the enact-*  
 20       *ment of this Act.*

21       **SEC. 209. COMPUTATION OF TARGETED ASSISTANCE.**

22       *Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by*  
 23       *adding at the end the following new subparagraph:*

24              *“(C) Except for the Targeted Assistance Ten Percent*  
 25       *Discretionary Program, all grants made available under*

1 *this paragraph for a fiscal year shall be allocated by the*  
 2 *Office of Refugee Resettlement in a manner that ensures*  
 3 *that each qualifying county receives the same amount of*  
 4 *assistance for each refugee and entrant residing in the coun-*  
 5 *ty as of the beginning of the fiscal year who arrived in the*  
 6 *United States not earlier than 60 months before the begin-*  
 7 *ning of such fiscal year.”.*

8 ***Subtitle B—Miscellaneous***  
 9 ***Provisions***

10 ***SEC. 211. REIMBURSEMENT OF STATES AND LOCALITIES***  
 11 ***FOR EMERGENCY MEDICAL ASSISTANCE FOR***  
 12 ***CERTAIN ILLEGAL ALIENS.***

13 *(a) REIMBURSEMENT.—The Attorney General shall,*  
 14 *subject to the availability of appropriations, fully reimburse*  
 15 *the States and political subdivisions of the States for costs*  
 16 *incurred by the States and political subdivisions for emer-*  
 17 *gency ambulance service provided to any alien who—*

18 *(1) entered the United States without inspection*  
 19 *or at any time or place other than as designated by*  
 20 *the Attorney General;*

21 *(2) is under the custody of a State or a political*  
 22 *subdivision of a State as a result of transfer or other*  
 23 *action by Federal authorities; and*

24 *(3) is being treated for an injury suffered while*  
 25 *crossing the international border between the United*

1       *States and Mexico or between the United States and*  
 2       *Canada.*

3       **(b) STATUTORY CONSTRUCTION.**—*Nothing in this sec-*  
 4       *tion requires that the alien be arrested by Federal authori-*  
 5       *ties before entering into the custody of the State or political*  
 6       *subdivision.*

7       **(c) AUTHORIZATION OF APPROPRIATIONS.**—

8               **(1) AUTHORIZATION OF APPROPRIATIONS.**—  
 9       *There are authorized to be appropriated to the Attor-*  
 10       *ney General such sums as may be necessary to carry*  
 11       *out the provisions of this section.*

12               **(2) STATUTORY CONSTRUCTION.**—*Nothing in this*  
 13       *Act may be construed to prevent the Attorney General*  
 14       *from seeking reimbursement from an alien described*  
 15       *in subsection (a) for the costs of the emergency medi-*  
 16       *cal services provided to the alien.*

17       **SEC. 212. TREATMENT OF EXPENSES SUBJECT TO EMER-**  
 18       **GENCY MEDICAL SERVICES EXCEPTION.**

19       **(a) IN GENERAL.**—*Subject to such amounts as are pro-*  
 20       *vided in advance in appropriation Acts, each State or local*  
 21       *government that provides emergency medical services*  
 22       *through a public hospital, other public facility, or other fa-*  
 23       *cility (including a hospital that is eligible for an additional*  
 24       *payment adjustment under section 1886(d)(5)(F) or section*  
 25       *1923 of the Social Security Act), or through contract with*

1 another hospital or facility, to an individual who is an  
 2 alien not lawfully present in the United States, is entitled  
 3 to receive payment from the Federal Government for its  
 4 costs of providing such services, but only to the extent that  
 5 the costs of the State or local government are not fully reim-  
 6 bursed through any other Federal program and cannot be  
 7 recovered from the alien or other entity.

8 (b) *CONFIRMATION OF IMMIGRATION STATUS.*—No  
 9 payment shall be made under this section with respect to  
 10 services furnished to aliens described in subsection (a) un-  
 11 less the State or local government establishes that it has  
 12 provided services to such aliens in accordance with proce-  
 13 dures established by the Secretary of Health and Human  
 14 Services, after consultation with the Attorney General and  
 15 State and local officials.

16 (c) *ADMINISTRATION.*—This section shall be adminis-  
 17 tered by the Attorney General, in consultation with the Sec-  
 18 retary of Health and Human Services.

19 (d) *EFFECTIVE DATE.*—This section shall not apply  
 20 to emergency medical services furnished before October 1,  
 21 1995.

22 **SEC. 213. PILOT PROGRAMS.**

23 (a) *ADDITIONAL COMMUTER BORDER CROSSING FEES*  
 24 *PILOT PROJECTS.*—In addition to the land border fee pilot  
 25 projects extended by the fourth proviso under the heading

1 “ *Immigration and Naturalization Service, Salaries and*  
 2 *Expenses*” of Public Law 103–121, the Attorney General  
 3 may establish another such pilot project on the northern  
 4 land border and another such pilot project on the southern  
 5 land border of the United States.

6 (b) *AUTOMATED PERMIT PILOT PROJECTS.*—The At-  
 7 torney General and the Commissioner of Customs are au-  
 8 thorized to conduct pilot projects to demonstrate—

9 (1) *the feasibility of expanding port of entry*  
 10 *hours at designated ports of entry on the United*  
 11 *States-Canada border; or*

12 (2) *the use of designated ports of entry after*  
 13 *working hours through the use of card reading ma-*  
 14 *chines or other appropriate technology.*

15 **SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT**  
 16 **FOREIGN STUDENTS.**

17 (a) *PERSONS ELIGIBLE FOR STUDENT VISAS.*—Sec-  
 18 *tion 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—*

19 (1) *in clause (i) by striking “academic high*  
 20 *school, elementary school, or other academic institu-*  
 21 *tion or in a language training program” and insert-*  
 22 *ing in lieu thereof “public elementary or public sec-*  
 23 *ondary school (if the alien shows to the satisfaction*  
 24 *of the consular officer at the time of application for*  
 25 *a visa, or of the Attorney General at the time of ap-*



1      *plication for admission or adjustment of status, that*  
 2      *(I) the alien will in fact reimburse such public ele-*  
 3      *mentary or public secondary school for the full,*  
 4      *unsubsidized per-capita cost of providing education at*  
 5      *such school to an individual pursuing such a course*  
 6      *of study, or (II) the school waives such reimburse-*  
 7      *ment), private elementary or private secondary*  
 8      *school, or postsecondary academic institution, or in a*  
 9      *language-training program”; and*

10      *(2) by inserting before the semicolon at the end*  
 11      *of clause (ii) the following: “: Provided, That nothing*  
 12      *in this paragraph shall be construed to prevent a*  
 13      *child who is present in the United States in a non-*  
 14      *immigrant status other than that conferred by para-*  
 15      *graph (B), (C), (F)(i), or (M)(i), from seeking admis-*  
 16      *sion to a public elementary school or public secondary*  
 17      *school for which such child may otherwise be quali-*  
 18      *fied”;*

19      *(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section*  
 20      *212(a) (8 U.S.C. 1182(a)) is amended by adding at the end*  
 21      *the following new paragraph:*

22      *“(9) STUDENT VISA ABUSERS.—Any alien de-*  
 23      *scribed in section 101(a)(15)(F) who is admitted as*  
 24      *a student for study at a private elementary school or*  
 25      *private secondary school and who does not remain en-*

1       rolled, throughout the duration of his or her elemen-  
2       tary or secondary school education in the United  
3       States, at either (A) such a private school, or (B) a  
4       public elementary or public secondary school (if (I)  
5       the alien is in fact reimbursing such public elemen-  
6       tary or public secondary school for the full,  
7       unsubsidized per-capita cost of providing education at  
8       such school to an individual pursuing such a course  
9       of study, or (II) the school waives such reimburse-  
10      ment) is excludable.”.

11      (c) *DEPORTATION OF STUDENT VISA ABUSERS.*—Sec-  
12      tion 241(a) (8 U.S.C. 1251(a)) is amended by adding at  
13      the end the following new paragraph:

14               “(6) *STUDENT VISA ABUSERS.*—Any alien de-  
15      scribed in section 101(a)(15)(F) who is admitted as  
16      a student for study at a private elementary school or  
17      private secondary school and who does not remain en-  
18      rolled, throughout the duration of his or her elemen-  
19      tary or secondary school education in the United  
20      States, at either (A) such a private school, or (B) a  
21      public elementary or public secondary school (if (I)  
22      the alien is in fact reimbursing such public elemen-  
23      tary or public secondary school for the full,  
24      unsubsidized per-capita cost of providing education at  
25      such school to an individual pursuing such a course of

1        *study, or (II) the school waives such reimbursement),*  
 2        *is deportable.”.*

3        *(d) EFFECTIVE DATE.—This section shall become effec-*  
 4        *tive 1 day after the date of enactment.*

5        **SEC. 215. PILOT PROGRAM TO COLLECT INFORMATION RE-**  
 6                                **LATING TO NONIMMIGRANT FOREIGN STU-**  
 7                                **DENTS.**

8        *(a) IN GENERAL.—(1) The Attorney General and the*  
 9        *Secretary of State shall jointly develop and conduct a pilot*  
 10        *program to collect electronically from approved colleges and*  
 11        *universities in the United States the information described*  
 12        *in subsection (c) with respect to aliens who—*

13                *(A) have the status, or are applying for the sta-*  
 14        *tus, of nonimmigrants under section 101(a)(15) (F),*  
 15        *(J), or (M) of the Immigration and Nationality Act*  
 16        *(8 U.S.C. 1101(a)(15) (F), (J), or (M)); and*

17                *(B) are nationals of the countries designated*  
 18        *under subsection (b).*

19        *(2) The pilot program shall commence not later than*  
 20        *January 1, 1998.*

21        *(b) COVERED COUNTRIES.—The Attorney General and*  
 22        *the Secretary of State shall jointly designate countries for*  
 23        *purposes of subsection (a)(1)(B). The Attorney General and*  
 24        *the Secretary shall initially designate not less than five*

1 *countries and may designate additional countries at any*  
 2 *time while the pilot program is being conducted.*

3 *(c) INFORMATION TO BE COLLECTED.—*

4 *(1) IN GENERAL.—The information for collection*  
 5 *under subsection (a) consists of—*

6 *(A) the identity and current address in the*  
 7 *United States of the alien;*

8 *(B) the nonimmigrant classification of the*  
 9 *alien and the date on which a visa under the*  
 10 *classification was issued or extended or the date*  
 11 *on which a change to such classification was ap-*  
 12 *proved by the Attorney General; and*

13 *(C) the academic standing of the alien, in-*  
 14 *cluding any disciplinary action taken by the col-*  
 15 *lege or university against the alien as a result of*  
 16 *the alien's being convicted of a crime.*

17 *(2) FERPA.—The Family Educational Rights*  
 18 *and Privacy Act of 1974 (20 U.S.C. 1232g) shall not*  
 19 *apply to aliens described in subsection (a) to the ex-*  
 20 *tent that the Attorney General and the Secretary of*  
 21 *State determine necessary to carry out the pilot pro-*  
 22 *gram.*

23 *(d) PARTICIPATION BY COLLEGES AND UNIVER-*  
 24 *SITIES.—(1) The information specified in subsection (c)*

1 *shall be provided by approved colleges and universities as*  
2 *a condition of—*

3 *(A) the continued approval of the colleges and*  
4 *universities under section 101(a)(15) (F) or (M) of*  
5 *the Immigration and Nationality Act, or*

6 *(B) the issuance of visas to aliens for purposes*  
7 *of studying, or otherwise participating, at such col-*  
8 *leges and universities in a program under section*  
9 *101(a)(15)(J) of such Act.*

10 *(2) If an approved college or university fails to provide*  
11 *the specified information, such approvals and such issuance*  
12 *of visas shall be revoked or denied.*

13 *(e) FUNDING.—(1) The Attorney General and the Sec-*  
14 *retary shall use funds collected under section 281(b) of the*  
15 *Immigration and Nationality Act, as added by this sub-*  
16 *section, to pay for the costs of carrying out this section.*

17 *(2) Section 281 of the Immigration and Nationality*  
18 *Act (8 U.S.C. 1351) is amended—*

19 *(A) by inserting “(a)” after “SEC. 281.”; and*

20 *(B) by adding at the end the following:*

21 *“(b)(1) In addition to fees that are prescribed under*  
22 *subsection (a), the Secretary of State shall impose and col-*  
23 *lect a fee on all visas issued under the provisions of section*  
24 *101(a)(15) (F), (J), or (M) of the Immigration and Nation-*  
25 *ality Act. With respect to visas issued under the provisions*

1 of section 101(a)(15)(J), this subsection shall not apply to  
2 those ‘J’ visa holders whose presence in the United States  
3 is sponsored by the United States Government.

4 “(2) The Attorney General shall impose and collect a  
5 fee on all changes of nonimmigrant status under section 248  
6 to such classifications. This subsection shall not apply to  
7 those ‘J’ visa holders whose presence in the United States  
8 is sponsored by the United States Government.

9 “(3) Except as provided in section 205(g)(2) of the Im-  
10 migration Reform Act of 1996, the amount of the fees im-  
11 posed and collected under paragraphs (1) and (2) shall be  
12 the amount which the Attorney General and the Secretary  
13 jointly determine is necessary to recover the costs of con-  
14 ducting the information-collection program described in  
15 subsection (a), but may not exceed \$100.

16 “(4) Funds collected under paragraph (1) shall be  
17 available to the Attorney General and the Secretary, with-  
18 out regard to appropriation Acts and without fiscal year  
19 limitation, to supplement funds otherwise available to the  
20 Department of Justice and the Department of State, respec-  
21 tively.”.

22 (3) The amendments made by paragraphs (1) and (2)  
23 shall become effective April 1, 1997.

24 (f) JOINT REPORT.—Not later than five years after the  
25 commencement of the pilot program established under sub-

1 *section (a), the Attorney General and the Secretary of State*  
2 *shall jointly submit to the Committees on the Judiciary of*  
3 *the United States Senate and House of Representatives on*  
4 *the operations of the pilot program and the feasibility of*  
5 *expanding the program to cover the nationals of all coun-*  
6 *tries.*

7 *(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—*

8 *(1)(A) Not later than six months after the submission of*  
9 *the report required by subsection (f), the Secretary of State*  
10 *and the Attorney General shall jointly commence expansion*  
11 *of the pilot program to cover the nationals of all countries.*

12 *(B) Such expansion shall be completed not later than*  
13 *one year after the date of the submission of the report re-*  
14 *ferred to in subsection (f).*

15 *(2) After the program has been expanded, as provided*  
16 *in paragraph (1), the Attorney General and the Secretary*  
17 *of State may, on a periodic basis, jointly revise the amount*  
18 *of the fee imposed and collected under section 281(b) of the*  
19 *Immigration and Nationality Act in order to take into ac-*  
20 *count changes in the cost of carrying out the program.*

21 *(h) DEFINITION.—As used in this section, the phrase*  
22 *“approved colleges and universities” means colleges and*  
23 *universities approved by the Attorney General, in consulta-*  
24 *tion with the Secretary of Education, under subparagraph*

1 *(F), (J), or (M) of section 101(a)(15) of the Immigration*  
2 *and Nationality Act (8 U.S.C. 1101(a)(15)).*

3 **SEC. 216. FALSE CLAIMS OF UNITED STATES CITIZENSHIP.**

4 *(a) EXCLUSION OF ALIENS WHO HAVE FALSELY*  
5 *CLAIMED UNITED STATES CITIZENSHIP.—Section*  
6 *212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at*  
7 *the end the following new subparagraph:*

8 *“(D) FALSELY CLAIMING CITIZENSHIP.—*  
9 *Any alien who falsely represents, or has falsely*  
10 *represented, himself to be a citizen of the United*  
11 *States is excludable.”.*

12 *(b) DEPORTATION OF ALIENS WHO HAVE FALSELY*  
13 *CLAIMED UNITED STATES CITIZENSHIP.—Section 241(a)*  
14 *(8 U.S.C. 1251(a)) is amended by adding at the end the*  
15 *following new paragraph:*

16 *“(6) FALSELY CLAIMING CITIZENSHIP.—Any*  
17 *alien who falsely represents, or has falsely rep-*  
18 *resented, himself to be a citizen of the United States*  
19 *is deportable.”.*

20 **SEC. 217. VOTING BY ALIENS.**

21 *(a) CRIMINAL PENALTY FOR VOTING BY ALIENS IN*  
22 *FEDERAL ELECTION.—Title 18, United States Code, is*  
23 *amended by adding the following new section:*



1 **“§ 611. Voting by aliens**

2       “(a) *It shall be unlawful for any alien to vote in any*  
 3 *election held solely or in part for the purpose of electing*  
 4 *a candidate for the office of President, Vice President, Presi-*  
 5 *dential elector, Member of the Senate, Member of the House*  
 6 *of Representatives, Delegate from the District of Columbia,*  
 7 *or Resident Commissioner, unless—*

8               “(1) *the election is held partly for some other*  
 9 *purpose;*

10              “(2) *aliens are authorized to vote for such other*  
 11 *purpose under a State constitution or statute or a*  
 12 *local ordinance; and*

13              “(3) *voting for such other purpose is conducted*  
 14 *independently of voting for a candidate for such Fed-*  
 15 *eral offices, in such a manner that an alien has the*  
 16 *opportunity to vote for such other purpose, but not an*  
 17 *opportunity to vote for a candidate for any one or*  
 18 *more of such Federal offices.*

19       “(b) *Any person who violates this section shall be fined*  
 20 *not more than \$5,000 or imprisoned not more than one year*  
 21 *or both.”.*

22       (b) *EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY*  
 23 *VOTED.—Section 212(a) (8 U.S.C. 1182(a)) is amended by*  
 24 *adding at the end the following new paragraph:*

25              “(9) *UNLAWFUL VOTERS.—Any alien who has*  
 26 *voted in violation of any Federal, State, or local con-*

stitutional provision, statute, ordinance, or regulation is excludable.”.

(c) *DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.*—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

“(6) *UNLAWFUL VOTERS.*—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.”.

**SEC. 218. EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.**

(a) *IN GENERAL.*—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

“(E) *DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.*—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

“(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for

1           whom the protection order was issued is deport-  
2           able.

3           “(iii) Any alien who at any time after  
4           entry is convicted of a crime of stalking is de-  
5           portable.

6           “(iv) Any alien who at any time after entry  
7           is convicted of a crime of child abuse, child sex-  
8           ual abuse, child neglect, or child abandonment is  
9           deportable.

10          “(F) *CRIMES OF SEXUAL VIOLENCE.*—Any  
11          alien who at any time after entry is convicted of  
12          a crime of rape, aggravated sodomy, aggravated  
13          sexual abuse, sexual abuse, abusive sexual con-  
14          tact, or other crime of sexual violence is deport-  
15          able.”.

16          (b) *DEFINITIONS.*—Section 101(a) (8 U.S.C. 1101(a))  
17          is amended by adding at the end the following new para-  
18          graphs:

19          “(47) The term ‘crime of domestic violence’ means any  
20          felony or misdemeanor crime of violence committed by a  
21          current or former spouse of the victim, by a person with  
22          whom the victim shares a child in common, by a person  
23          who is cohabiting with or has cohabited with the victim  
24          as a spouse, by a person similarly situated to a spouse of  
25          the victim under the domestic or family violence laws of

1 *the jurisdiction where the offense occurs, or by any other*  
 2 *adult person against a victim who is protected from that*  
 3 *person's acts under the domestic or family violence laws of*  
 4 *the United States or any State, Indian tribal government,*  
 5 *or unit of local government.*

6       “(48) *The term ‘protection order’ means any injunc-*  
 7 *tion issued for the purpose of preventing violent or threaten-*  
 8 *ing acts of domestic violence, including temporary or final*  
 9 *orders issued by civil or criminal courts (other than support*  
 10 *or child custody orders or provisions) whether obtained by*  
 11 *filing an independent action or as a pendente lite order*  
 12 *in another proceeding.”.*

13       (c) *EFFECTIVE DATE.*—*This section will become effec-*  
 14 *tive one day after the date of enactment of the Act.*

## 15       ***Subtitle C—Housing Assistance***

### 16       ***SEC. 221. SHORT TITLE.***

17       *This subtitle may be cited as the “Use of Assisted*  
 18 *Housing by Aliens Act of 1996”.*

### 19       ***SEC. 222. PRORATING OF FINANCIAL ASSISTANCE.***

20       *Section 214(b) of the Housing and Community Devel-*  
 21 *opment Act of 1980 (42 U.S.C. 1436a(b)) is amended—*

22               (1) *by inserting “(1)” after “(b)”;* and

23               (2) *by adding at the end the following new para-*  
 24 *graph:*

1       “(2) *If the eligibility for financial assistance of at least*  
 2 *one member of a family has been affirmatively established*  
 3 *under the program of financial assistance and under this*  
 4 *section, and the ineligibility of one or more family members*  
 5 *has not been affirmatively established under this section,*  
 6 *any financial assistance made available to that family by*  
 7 *the Secretary of Housing and Urban Development shall be*  
 8 *prorated, based on the number of individuals in the family*  
 9 *for whom eligibility has been affirmatively established*  
 10 *under the program of financial assistance and under this*  
 11 *section, as compared with the total number of individuals*  
 12 *who are members of the family.”.*

13 **SEC. 223. ACTIONS IN CASES OF TERMINATION OF**  
 14 **FINANCIAL ASSISTANCE.**

15       *Section 214(c)(1) of the Housing and Community De-*  
 16 *velopment Act of 1980 (42 U.S.C. 1436a(c)(1)) is amend-*  
 17 *ed—*

18               *(1) in the matter preceding subparagraph (A),*  
 19       *by striking “may, in its discretion,” and inserting*  
 20       *“shall”;*

21               *(2) in subparagraph (A), by adding at the end*  
 22       *the following: “Financial assistance continued under*  
 23       *this subparagraph for a family may be provided only*  
 24       *on a prorated basis, under which the amount of fi-*  
 25       *nancial assistance is based on the percentage of the*

1       *total number of members of the family that are eligi-*  
2       *ble for that assistance under the program of financial*  
3       *assistance and under this section.”; and*

4               *(3) in subparagraph (B)—*

5                       *(A) by striking “6-month period” and all*  
6                       *that follows through the end of the subparagraph*  
7                       *and inserting “single 3-month period.”;*

8                       *(B) by inserting “(i)” after “(B)”;*

9                       *(C) by striking “Any deferral” and insert-*  
10                      *ing the following:*

11                      *“(ii) Except as provided in clause (iii) and*  
12                      *subject to clause (iv), any deferral”; and*

13                      *(D) by adding at the end the following new*  
14                      *clauses:*

15                      *“(iii) The time period described in clause*  
16                      *(ii) shall not apply in the case of a refugee under*  
17                      *section 207 of the Immigration and Nationality*  
18                      *Act or an individual seeking asylum under sec-*  
19                      *tion 208 of that Act.*

20                      *“(iv) The time period described in clause*  
21                      *(ii) shall be extended for a period of 1 month in*  
22                      *the case of any individual who is provided, upon*  
23                      *request, with a hearing under this section.”.*

1 **SEC. 224. VERIFICATION OF IMMIGRATION STATUS AND ELI-**  
2 **GIBILITY FOR FINANCIAL ASSISTANCE.**

3 *Section 214(d) of the Housing and Community Devel-*  
4 *opment Act of 1980 (42 U.S.C. 1436a(d)) is amended—*

5 *(1) in the matter preceding paragraph (1), by*  
6 *inserting “or to be” after “being”;*

7 *(2) in paragraph (1)(A), by adding at the end*  
8 *the following: “If the declaration states that the indi-*  
9 *vidual is not a citizen or national of the United*  
10 *States and that the individual is younger than 62*  
11 *years of age, the declaration shall be verified by the*  
12 *Immigration and Naturalization Service. If the dec-*  
13 *laration states that the individual is a citizen or na-*  
14 *tional of the United States, the Secretary of Housing*  
15 *and Urban Development, or the agency administering*  
16 *assistance covered by this section, may request ver-*  
17 *ification of the declaration by requiring presentation*  
18 *of documentation that the Secretary considers appro-*  
19 *priate, including a United States passport, resident*  
20 *alien card, alien registration card, social security*  
21 *card, or other documentation.”;*

22 *(3) in paragraph (2)—*

23 *(A) in the matter preceding subparagraph*  
24 *(A), by striking “on the date of the enactment of*  
25 *the Housing and Community Development Act of*  
26 *1987” and inserting “on the date of enactment*

1           *of the Use of Assisted Housing by Aliens Act of*  
2           *1996 or applying for financial assistance on or*  
3           *after that date”; and*

4           *(B) by adding at the end the following:*

5   *“In the case of an individual applying for financial assist-*  
6   *ance on or after the date of enactment of the Use of Assisted*  
7   *Housing by Aliens Act of 1996, the Secretary may not pro-*  
8   *vide any such assistance for the benefit of that individual*  
9   *before documentation is presented and verified under para-*  
10   *graph (3) or (4).”;*

11           *(4) in paragraph (4)—*

12           *(A) in the matter preceding subparagraph*  
13           *(A), by striking “on the date of the enactment of*  
14           *the Housing and Community Development Act of*  
15           *1987” and inserting “on the date of enactment*  
16           *of the Use of Assisted Housing by Aliens Act of*  
17           *1996 or applying for financial assistance on or*  
18           *after that date”;*

19           *(B) in subparagraph (A)—*

20           *(i) in clause (i)—*

21           *(I) by inserting “, not to exceed*  
22           *30 days,” after “reasonable oppor-*  
23           *tunity”; and*

24           *(II) by striking “and” at the end;*

25           *and*



1                   (ii) by striking clause (ii) and insert-  
2                   ing the following:

3                   “(ii) in the case of any individual re-  
4                   ceiving assistance on the date of enactment  
5                   of the Use of Assisted Housing by Aliens Act  
6                   of 1996, may not delay, deny, reduce, or  
7                   terminate the eligibility of that individual  
8                   for financial assistance on the basis of the  
9                   immigration status of that individual until  
10                  the expiration of that 30-day period; and

11                  “(iii) in the case of any individual ap-  
12                  plying for financial assistance on or after  
13                  the date of enactment of the Use of Assisted  
14                  Housing by Aliens Act of 1996, may not  
15                  deny the application for such assistance on  
16                  the basis of the immigration status of that  
17                  individual until the expiration of that 30-  
18                  day period; and”; and

19                  (C) in subparagraph (B), by striking clause  
20                  (ii) and inserting the following:

21                  “(ii) pending such verification or ap-  
22                  peal, the Secretary may not—

23                         “(I) in the case of any individual  
24                         receiving assistance on the date of en-  
25                         actment of the Use of Assisted Housing

1                   *by Aliens Act of 1996, delay, deny, re-*  
2                   *duce, or terminate the eligibility of*  
3                   *that individual for financial assistance*  
4                   *on the basis of the immigration status*  
5                   *of that individual; and*

6                   “(II) in the case of any individ-  
7                   *ual applying for financial assistance*  
8                   *on or after the date of enactment of the*  
9                   *Use of Assisted Housing by Aliens Act*  
10                  *of 1996, deny the application for such*  
11                  *assistance on the basis of the immigra-*  
12                  *tion status of that individual; and”;*

13                  (5) in paragraph (5), by striking “status—” and  
14                  *all that follows through the end of the paragraph and*  
15                  *inserting the following: “status, the Secretary shall—*

16                  “(A) deny the application of that individ-  
17                  *ual for financial assistance or terminate the eli-*  
18                  *gibility of that individual for financial assist-*  
19                  *ance, as applicable; and*

20                  “(B) provide to the individual written no-  
21                  *tice of the determination under this paragraph*  
22                  *and the right to a fair hearing process.”; and*

23                  (6) by striking paragraph (6) and inserting the  
24                  *following:*

1           “(6) *The Secretary shall terminate the eligibility*  
 2           *for financial assistance of an individual and the*  
 3           *members of the household of the individual, for a pe-*  
 4           *riod of not less than 24 months, upon determining*  
 5           *that such individual has knowingly permitted another*  
 6           *individual who is not eligible for such assistance to*  
 7           *reside in the public or assisted housing unit of the in-*  
 8           *dividual. This provision shall not apply to a family*  
 9           *if the ineligibility of the ineligible individual at issue*  
 10           *was considered in calculating any proration of assist-*  
 11           *ance provided for the family.”.*

12 **SEC. 225. PROHIBITION OF SANCTIONS AGAINST ENTITIES**

13                   **MAKING FINANCIAL ASSISTANCE ELIGIBILITY**  
 14                   **DETERMINATIONS.**

15           *Section 214(e) of the Housing and Community Devel-*  
 16           *opment Act of 1980 (42 U.S.C. 1436a(e)) is amended—*

17                   *(1) in paragraph (2), by adding “or” at the end;*

18                   *(2) in paragraph (3), by adding at the end the*  
 19           *following: “the response from the Immigration and*  
 20           *Naturalization Service to the appeal of that individ-*  
 21           *ual.”; and*

22                   *(3) by striking paragraph (4).*

1 **SEC. 226. ELIGIBILITY FOR PUBLIC AND ASSISTED HOUS-**  
 2 **ING.**

3 *Section 214 of the Housing and Community Develop-*  
 4 *ment Act of 1980 (42 U.S.C. 1436a) is amended by adding*  
 5 *at the end the following new subsection:*

6 “(h) *VERIFICATION OF ELIGIBILITY.*—

7 “(1) *IN GENERAL.*—*Except in the case of an elec-*  
 8 *tion under paragraph (2)(A), no individual or family*  
 9 *applying for financial assistance may receive such fi-*  
 10 *nancial assistance prior to the affirmative establish-*  
 11 *ment and verification of eligibility of that individual*  
 12 *or family under this section by the Secretary or other*  
 13 *appropriate entity.*

14 “(2) *RULES APPLICABLE TO PUBLIC HOUSING*  
 15 *AGENCIES.*—*A public housing agency (as that term is*  
 16 *defined in section 3 of the United States Housing Act*  
 17 *of 1937)—*

18 “(A) *may elect not to comply with this sec-*  
 19 *tion; and*

20 “(B) *in complying with this section—*

21 “(i) *may initiate procedures to affirm-*  
 22 *atively establish or verify the eligibility of*  
 23 *an individual or family under this section*  
 24 *at any time at which the public housing*  
 25 *agency determines that such eligibility is in*  
 26 *question, regardless of whether or not that*

1           individual or family is at or near the top  
2           of the waiting list of the public housing  
3           agency;

4           “(ii) may affirmatively establish or  
5           verify the eligibility of an individual or  
6           family under this section in accordance  
7           with the procedures set forth in section  
8           274A(b)(1) of the Immigration and Nation-  
9           ality Act; and

10          “(iii) shall have access to any relevant  
11          information contained in the SAVE system  
12          (or any successor thereto) that relates to  
13          any individual or family applying for fi-  
14          nancial assistance.

15          “(3) *ELIGIBILITY OF FAMILIES.*—For purposes of  
16          this subsection, with respect to a family, the term ‘eli-  
17          gibility’ means the eligibility of each family mem-  
18          ber.”.

19   **SEC. 227. REGULATIONS.**

20          (a) *ISSUANCE.*—Not later than the 60 days after the  
21          date of enactment of this Act, the Secretary of Housing and  
22          Urban Development shall issue any regulations necessary  
23          to implement the amendments made by this part. Such reg-  
24          ulations shall be issued in the form of an interim final rule,  
25          which shall take effect upon issuance and shall not be sub-

1 ject to the provisions of section 533 of title 5, United States  
2 Code, regarding notice or opportunity for comment.

3 (b) *FAILURE TO ISSUE*.—If the Secretary fails to issue  
4 the regulations required under subsection (a) before the date  
5 specified in that subsection, the regulations relating to re-  
6 strictions on assistance to noncitizens, contained in the  
7 final rule issued by the Secretary of Housing and Urban  
8 Development in RIN–2501–AA63 (Docket No. R–95–1409;  
9 FR–2383–F–050), published in the Federal Register on  
10 March 20, 1995 (Vol. 60, No. 53; pp. 14824–14861), shall  
11 not apply after that date.

## 12 ***Subtitle D—Effective Dates***

### 13 ***SEC. 231. EFFECTIVE DATES.***

14 (a) *IN GENERAL*.—Except as provided in subsection  
15 (b) or as otherwise provided in this title, this title and the  
16 amendments made by this title shall take effect on the date  
17 of the enactment of this Act.

18 (b) *BENEFITS*.—The provisions of sections 201 and  
19 204 shall apply to benefits and to applications for benefits  
20 received on or after the date of the enactment of this Act.

***TITLE III—MISCELLANEOUS  
PROVISIONS***

***SEC. 301. CHANGES REGARDING VISA APPLICATION PROC-  
ESS.***

*(a) NONIMMIGRANT APPLICATIONS.—Section 222(c) (8 U.S.C. 1202(c)) is amended—*

*(1) by striking all that follows after “United States;” through “marital status;”; and*

*(2) by adding at the end thereof the following:  
“At the discretion of the Secretary of State, applica-  
tion forms for the various classes of nonimmigrant  
admissions described in section 101(a)(15) may vary  
according to the class of visa being requested.”.*

*(b) DISPOSITION OF APPLICATIONS.—Section 222(e)  
(8 U.S.C. 1202(e)) is amended—*

*(1) in the first sentence, by striking “required by  
this section” and inserting “for an immigrant visa”;  
and*

*(2) in the third sentence—*

*(A) by inserting “or other document” after  
“stamp,”; and*

*(B) by striking “by the consular officer”.*

1 **SEC. 302. VISA WAIVER PROGRAM.**

2 (a) *EXTENSION OF PROGRAM.*—Section 217(f) (8  
3 U.S.C. 1187(f)) is amended by striking “1996” and insert-  
4 ing “1998”.

5 (b) *REPEAL OF PROBATIONARY PROGRAM.*—(1) Sec-  
6 tion 217(g) (8 U.S.C. 1187(g)) is repealed.

7 (2) A country designated as a pilot program country  
8 with probationary status under section 217(g) of the Immi-  
9 gration and Nationality Act (as in effect prior to the date  
10 of enactment of this Act) shall be subject to paragraphs (3)  
11 and (4) of that subsection as if such paragraphs were not  
12 repealed.

13 (c) *DURATION AND TERMINATION OF DESIGNATION OF*  
14 *PILOT PROGRAM COUNTRIES.*—Section 217, as amended by  
15 this section, is further amended by adding at the end the  
16 following:

17 “(g) *DURATION AND TERMINATION OF DESIGNA-*  
18 *TION.*—

19 “(1) *PROGRAM COUNTRIES.*—(A) Upon deter-  
20 mination by the Attorney General that a visa waiver  
21 program country’s disqualification rate is 2 percent  
22 or more, the Attorney General shall notify the Sec-  
23 retary of State.

24 “(B) If the program country’s disqualification  
25 rate is greater than 2 percent but less than 3.5 per-  
26 cent, the Attorney General and the Secretary of State



1       *shall place the program country in probationary sta-*  
2       *tus for a period not to exceed 3 full fiscal years fol-*  
3       *lowing the year in which the designation of the coun-*  
4       *try as a pilot program country is made.*

5               “(C) *If the program country’s disqualification*  
6       *rate is 3.5 percent or more, the Attorney General and*  
7       *the Secretary of State, acting jointly, shall terminate*  
8       *the country’s designation effective at the beginning of*  
9       *the second fiscal year following the fiscal year in*  
10       *which the determination is made.*

11              “(2) *END OF PROBATIONARY STATUS.—(A) If the*  
12       *Attorney General and the Secretary of State, acting*  
13       *jointly, determine at the end of the probationary pe-*  
14       *riod described in subparagraph (B) that the program*  
15       *country’s disqualification rate is less than 2 percent,*  
16       *they shall redesignate the country as a program coun-*  
17       *try.*

18              “(B) *If the Attorney General and the Secretary*  
19       *of State, acting jointly, determine at the end of the*  
20       *probationary period described in subparagraph (B)*  
21       *that a visa waiver country has—*

22                      “(i) *failed to develop a machine readable*  
23                      *passport program as required by subparagraph*  
24                      *(C) of subsection (c)(2), or*

1           “(ii) has a disqualification rate of 2 percent  
2           or more,  
3           then the Attorney General and the Secretary of State  
4           shall jointly terminate the designation of the country  
5           as a visa waiver program country, effective at the be-  
6           ginning of the first fiscal year following the fiscal  
7           year in which in the determination is made.

8           “(3) *DISCRETIONARY TERMINATION.*—Notwith-  
9           standing any other provision of this section, the At-  
10          torney General and the Secretary of State, acting  
11          jointly, may for any reason (including national secu-  
12          rity or failure to meet any other requirement of this  
13          section), at any time, rescind any waiver under sub-  
14          section (a) or terminate any designation under sub-  
15          section (c), effective upon such date as they shall  
16          jointly determine.

17          “(4) *EFFECTIVE DATE OF TERMINATION.*—Na-  
18          tionals of a country whose eligibility for the program  
19          is terminated by the Attorney General and the Sec-  
20          retary of State, acting jointly, may continue to have  
21          paragraph (7)(B)(i)(II) of section 212(a) waived, as  
22          authorized by subsection (a), until the country’s ter-  
23          mination of designation becomes effective as provided  
24          in this subsection.

1           “(5) *NONAPPLICABILITY OF CERTAIN PROVI-*  
 2           *SIONS.—Paragraphs (1)(C) and (3) shall not apply*  
 3           *unless the total number of nationals of a designated*  
 4           *country, as described in paragraph (6)(A), is in ex-*  
 5           *cess of 100.*

6           “(6) *DEFINITION.—For purposes of this sub-*  
 7           *section, the term ‘disqualification rate’ means the*  
 8           *ratio of—*

9                   “(A) *the total number of nationals of the*  
 10           *visa waiver program country—*

11                           “(i) *who were excluded from admission*  
 12                           *or withdrew their application for admission*  
 13                           *during the most recent fiscal year for which*  
 14                           *data is available, and*

15                           “(ii) *who were admitted as non-*  
 16                           *immigrant visitors during such fiscal year*  
 17                           *and who violated the terms of such admis-*  
 18                           *sion, to*

19                           “(B) *the total number of nationals of that*  
 20           *country who applied for admission as non-*  
 21           *immigrant visitors during such fiscal year.”.*

22 **SEC. 303. TECHNICAL AMENDMENT.**

23           *Section 212(d)(11) of the Immigration and National-*  
 24           *ity Act (8 U.S.C. 1182(d)(11)) is amended by inserting a*  
 25           *“comma” after “(4) thereof”).*

1 **SEC. 304. CRIMINAL PENALTIES FOR HIGH SPEED FLIGHTS**  
2 **FROM IMMIGRATION CHECKPOINTS.**

3 (a) *FINDINGS.*—Congress makes the following findings:

4 (1) *Immigration checkpoints are an important*  
5 *component of the national strategy to prevent illegal*  
6 *immigration.*

7 (2) *Individuals fleeing immigration checkpoints*  
8 *and leading law enforcement officials on high speed*  
9 *vehicle chases endanger law enforcement officers, in-*  
10 *nocent bystanders, and the fleeing individuals them-*  
11 *selves.*

12 (3) *The pursuit of suspects fleeing immigration*  
13 *checkpoints is complicated by overlapping jurisdiction*  
14 *among Federal, State, and local law enforcement offi-*  
15 *cers.*

16 (b) *HIGH SPEED FLIGHT FROM BORDER CHECK-*  
17 *POINTS.*—Chapter 35 of title 18, United States Code, is  
18 amended by inserting the following new section:

19 **“§ 758. High speed flight from immigration check-**  
20 **point**

21 “(a) *Whoever flees or evades a checkpoint operated by*  
22 *the Immigration and Naturalization Service or any other*  
23 *Federal law enforcement agency in a motor vehicle after*  
24 *entering the United States and flees Federal, State, or local*  
25 *law enforcement agents in excess of the legal speed limit*  
26 *shall be imprisoned not more than five years.”.*

1       (c)     *GROUND**S*     *FOR*     *DEPORTATION*.—Section  
 2   241(a)(2)(A) (8 U.S.C. 1251(a)(2)(A)) of title 8, United  
 3   States Code, is amended by inserting the following new sub-  
 4   section:

5       “(v) *HIGH SPEED FLIGHT*.—Any alien who is con-  
 6   victed of high speed flight from a checkpoint (as defined  
 7   by section 758(a) of chapter 35) is deportable.”.

8   **SEC. 305. CHILDREN BORN ABROAD TO UNITED STATES CIT-**  
 9                   **IZEN MOTHERS; TRANSMISSION REQUIRE-**  
 10                  **MENTS.**

11       (a) *AMENDMENTS TO IMMIGRATION AND NATIONALITY*  
 12   *ACT TECHNICAL CORRECTIONS ACT OF 1994*.—Section  
 13   101(d) of the Immigration and Nationality Technical Cor-  
 14   rections Act of 1994 (Public Law 103–416) is amended to  
 15   read as follows:

16       “(d) *APPLICABILITY OF TRANSMISSION REQUIRE-*  
 17   *MENTS*.—Notwithstanding this section and the amendments  
 18   made by this section, any provision of law relating to resi-  
 19   dence or physical presence in the United States for purposes  
 20   of transmitting United States citizenship shall apply to any  
 21   person whose claim of citizenship is based on the amend-  
 22   ment made by subsection (a), and to any person through  
 23   whom such a claim of citizenship is derived.”.

24       (b) *EFFECTIVE DATE*.—The amendment made by this  
 25   section shall be deemed to have become effective as of the

1 *date of enactment of the Immigration and Nationality*  
2 *Technical Corrections Act of 1994.*

3 **SEC. 306. FEE FOR DIVERSITY IMMIGRANT LOTTERY.**

4       *The Secretary of State may establish a fee to be paid*  
5 *by each immigrant issued a visa under subsection (c) of*  
6 *section 203 of the Immigration and Nationality Act (8*  
7 *U.S.C. 1153(c)). Such fee may be set at a level so as to*  
8 *cover the full cost to the Department of State of administer-*  
9 *ing that subsection, including the cost of processing all ap-*  
10 *plications thereunder. All such fees collected shall be depos-*  
11 *ited as an offsetting collection to any Department of State*  
12 *appropriation and shall remain available for obligation*  
13 *until expended. The provisions of the Act of August 18, 1856*  
14 *(Rev. Stat. 1726–28; 22 U.S.C. 4212–14), concerning ac-*  
15 *counting for consular fees, shall not apply to fees collected*  
16 *pursuant to this section.*

17 **SEC. 307. SUPPORT OF DEMONSTRATION PROJECTS FOR**  
18 **NATURALIZATION CEREMONIES.**

19       *(a) FINDINGS.—The Congress makes the following*  
20 *findings:*

21               *(1) American democracy performs best when the*  
22       *maximum number of people subject to its laws par-*  
23       *ticipate in the political process, at all levels of govern-*  
24       *ment.*

1           (2) *Citizenship actively exercised will better as-*  
2           *sure that individuals both assert their rights and ful-*  
3           *fill their responsibilities of membership within our*  
4           *political community, thereby benefiting all citizens*  
5           *and residents of the United States.*

6           (3) *A number of private and charitable organi-*  
7           *zations assist in promoting citizenship, and the Sen-*  
8           *ate urges them to continue to do so.*

9           (b) *DEMONSTRATION PROJECTS.—The Attorney Gen-*  
10          *eral shall make available funds under this section, in each*  
11          *of 5 consecutive years (beginning with 1996), to the Immi-*  
12          *gration and Naturalization Service or to other public or*  
13          *private nonprofit entities to support demonstration projects*  
14          *under this section at 10 sites throughout the United States.*  
15          *Each such project shall be designed to provide for the ad-*  
16          *ministration of the oath of allegiance (under section 337(a)*  
17          *of the Immigration and Nationality Act) on a business day*  
18          *around the 4th of July for approximately 500 people whose*  
19          *application for naturalization has been approved. Each*  
20          *project shall provide for appropriate outreach and ceremo-*  
21          *nial and celebratory activities.*

22          (c) *SELECTION OF SITES.—The Attorney General*  
23          *shall, in the Attorney General's discretion, select diverse lo-*  
24          *cations for sites on the basis of the number of naturalization*  
25          *applicants living in proximity to each site and on the de-*

1 gree of local community participation and support in the  
 2 project to be held at the site. Not more than 2 sites may  
 3 be located in the same State. The Attorney General should  
 4 consider changing the sites selected from year to year.

5 (d) AMOUNTS AVAILABLE; USE OF FUNDS.—

6 (1) AMOUNT.—The amount that may be made  
 7 available under this section with respect to any single  
 8 site for a year shall not exceed \$5,000.

9 (2) USE.—Funds provided under this section  
 10 may only be used to cover expenses incurred carrying  
 11 out symbolic swearing-in ceremonies at the dem-  
 12 onstration sites, including expenses for—

13 (A) cost of personnel of the Immigration  
 14 and Naturalization Service (including travel  
 15 and overtime expenses),

16 (B) local outreach,

17 (C) rental of space, and

18 (D) costs of printing appropriate brochures  
 19 and other information about the ceremonies.

20 (3) AVAILABILITY OF FUNDS.—Funds that are  
 21 otherwise available to the Immigration and Natu-  
 22 ralization Service to carry out naturalization activi-  
 23 ties (including funds in the Immigration Examina-  
 24 tions Fee Account, under section 286(n) of the Immi-



1        *gration and Nationality Act) shall be available under*  
2        *this section.*

3        *(e) APPLICATION.—In the case of an entity other than*  
4        *the Immigration and Naturalization Service seeking to con-*  
5        *duct a demonstration project under this section, no amounts*  
6        *may be made available to the entity under this section un-*  
7        *less an appropriate application has been made to, and ap-*  
8        *proved by, the Attorney General, in a form and manner*  
9        *specified by the Attorney General.*

10       *(f) STATE DEFINED.—For purposes of this section, the*  
11       *term “State” has the meaning given such term in section*  
12       *101(a)(36) of the Immigration and Nationality Act (8*  
13       *U.S.C. 1101(a)(36)).*

14       **SEC. 308. REVIEW OF CONTRACTS WITH ENGLISH AND**  
15       **CIVICS TEST ENTITIES.**

16       *(a) IN GENERAL.—The Attorney General of the United*  
17       *States shall investigate and submit a report to the Congress*  
18       *regarding the practices of test entities authorized to admin-*  
19       *ister the English and civics tests pursuant to section*  
20       *312.3(a) of title 8, Code of Federal Regulations. The report*  
21       *shall include any findings of fraudulent practices by the*  
22       *testing entities.*

23       *(b) PRELIMINARY AND FINAL REPORTS.—Not later*  
24       *than 90 days after the date of the enactment of this Act,*  
25       *the Attorney General shall submit to the Congress a prelimi-*

1 nary report of the findings of the investigation conducted  
 2 pursuant to subsection (a) and shall submit to the Congress  
 3 a final report within 275 days after the submission of the  
 4 preliminary report.

5 **SEC. 309. DESIGNATION OF A UNITED STATES CUSTOMS AD-**  
 6 **MINISTRATIVE BUILDING.**

7 (a) *DESIGNATION.*—The United States Customs Ad-  
 8 ministrative Building at the Ysleta/Zaragosa Port of Entry  
 9 located at 797 South Zaragosa Road in El Paso, Texas,  
 10 shall be known and designated as the “Timothy C.  
 11 McCaghren Customs Administrative Building”.

12 (b) *REFERENCES.*—Any reference in a law, map, regu-  
 13 lation, document, paper, or other record of the United  
 14 States to the building referred to in section 1 shall be  
 15 deemed to be a reference to the “Timothy C. McCaghren  
 16 Customs Administrative Building”.

17 **SEC. 310. WAIVER OF FOREIGN COUNTRY RESIDENCE RE-**  
 18 **QUIREMENT WITH RESPECT TO INTER-**  
 19 **NATIONAL MEDICAL GRADUATES.**

20 (a) *EXTENSION OF WAIVER PROGRAM.*—Section  
 21 220(c) of the Immigration and Nationality Technical Cor-  
 22 rections Act of 1994 (8 U.S.C. 1182 note) is amended by  
 23 striking “June 1, 1996” and inserting “June 1, 2002”.

24 (b) *CONDITIONS ON FEDERALLY REQUESTED WAIV-*  
 25 *ERS.*—Section 212(e) of the Immigration and Nationality

1 *Act (8 U.S.C. 1184(e)) is amended by inserting after “ex-*  
2 *cept that in the case of a waiver requested by a State De-*  
3 *partment of Public Health or its equivalent” the following:*  
4 *“or in the case of a waiver requested by an interested Unit-*  
5 *ed States Government agency on behalf of an alien described*  
6 *in clause (iii)”.*

7 *(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIV-*  
8 *ERS.—Section 214(k) (8 U.S.C. 1184(k)) is amended to*  
9 *read as follows:*

10 *“(k)(1) In the case of a request by an interested State*  
11 *agency or by an interested United States Government agen-*  
12 *cy for a waiver of the two-year foreign residence require-*  
13 *ment under section 212(e) with respect to an alien described*  
14 *in clause (iii) of that section, the Attorney General shall*  
15 *not grant such waiver unless—*

16 *“(A) in the case of an alien who is otherwise*  
17 *contractually obligated to return to a foreign country,*  
18 *the government of such country furnishes the Director*  
19 *of the United States Information Agency with a state-*  
20 *ment in writing that it has no objection to such waiv-*  
21 *er; and*

22 *“(B)(i) in the case of a request by an interested*  
23 *State agency—*

24 *“(I) the alien demonstrates a bona fide offer*  
25 *of full-time employment, agrees to begin employ-*

1        *ment with the health facility or organization*  
2        *named in the waiver application within 90 days*  
3        *of receiving such waiver, and agrees to work for*  
4        *a total of not less than three years (unless the At-*  
5        *torney General determines that extenuating cir-*  
6        *cumstances exist, such as closure of the facility*  
7        *or hardship to the alien would justify a lesser pe-*  
8        *riod of time); and*

9                *“(II) the alien’s employment continues to*  
10              *benefit the public interest; or*

11              *“(ii) in the case of a request by an interested*  
12        *United States Government agency—*

13              *“(I) the alien demonstrates a bona fide offer*  
14              *of full-time employment that has been found to*  
15              *be in the public interest, agrees to begin employ-*  
16              *ment with the health facility or organization*  
17              *named in the waiver application within 90 days*  
18              *of receiving such waiver, and agrees to work for*  
19              *a total of not less than three years (unless the At-*  
20              *torney General determines that extenuating cir-*  
21              *cumstances exist, such as closure of the facility*  
22              *or hardship to the alien would justify a lesser pe-*  
23              *riod of time); and*

24              *“(II) the alien’s employment continues to*  
25              *benefit the public interest;*

1           “(C) in the case of a request by an interested  
2       State agency, the alien agrees to practice medicine in  
3       accordance with paragraph (2) for a total of not less  
4       than three years only in the geographic area or areas  
5       which are designated by the Secretary of Health and  
6       Human Services as having a shortage of health care  
7       professionals; and

8           “(D) in the case of a request by an interested  
9       State agency, the grant of such a waiver would not  
10      cause the number of waivers allotted for that State for  
11      that fiscal year to exceed 20.

12      “(2)(A) Notwithstanding section 248(2) the Attorney  
13      General may change the status of an alien that qualifies  
14      under this subsection and section 212(e) to that of an alien  
15      described in section 101(a)(15)(H)(i)(b).

16      “(B) No person who has obtained a change of status  
17      under subparagraph (A) and who has failed to fulfill the  
18      terms of the contract with the health facility or organization  
19      named in the waiver application shall be eligible to apply  
20      for an immigrant visa, for permanent residence, or for any  
21      other change of nonimmigrant status until it is established  
22      that such person has resided and been physically present  
23      in the country of his nationality or his last residence for  
24      an aggregate of at least two years following departure from  
25      the United States.

1       “(3) Notwithstanding any other provisions of this sub-  
 2 section, the two-year foreign residence requirement under  
 3 section 212(e) shall apply with respect to an alien in clause  
 4 (iii) of that section who has not otherwise been accorded  
 5 status under section 101(a)(27)(H)—

6               “(A) in the case of a request by an interested  
 7 State agency, if at any time the alien practices medi-  
 8 cine in an area other than an area described in para-  
 9 graph (1)(C); and

10              “(B) in the case of a request by an interested  
 11 United States Government agency, if at any time the  
 12 alien engages in employment for a health facility or  
 13 organization not named in the waiver application.”.

14 **SEC. 311. CONTINUED VALIDITY OF LABOR CERTIFI-**  
 15 **CATIONS AND PETITIONS FOR PROFES-**  
 16 **SIONAL ATHLETES.**

17       (a) **LABOR CERTIFICATION.**—Section 212(a)(5) is  
 18 amended by adding at the end the following:

19               “(D) **PROFESSIONAL ATHLETES.**—The labor  
 20 certification received for a professional athlete  
 21 shall remain valid for that athlete after the ath-  
 22 lete changes employer if the new employer is a  
 23 team in the same sport as the team which em-  
 24 ployed the athlete when he first applied for labor  
 25 certification hereunder. For purposes of this sub-

1           *paragraph, the term ‘professional athlete’ means*  
2           *an individual who is employed as an athlete by*  
3           *a team that belongs to the National Hockey*  
4           *League, the National Football League, the Na-*  
5           *tional Basketball Association, Major League*  
6           *Baseball, or any minor league which is affiliated*  
7           *with one of the forgoing leagues.”.*

8           (b) *PETITIONS.—Section 204(a)(1)(D) is amended by*  
9           *adding at the end the following new sentences: “A petition*  
10          *for a professional athlete will remain valid for that athlete*  
11          *after the athlete changes employers provided that the new*  
12          *employer is a team in the same sport as the team which*  
13          *employed the athlete when he first applied for labor certifi-*  
14          *cation hereunder. For purposes of the preceding sentence,*  
15          *the term ‘professional athlete’ means an individual who is*  
16          *employed as an athlete by a team that belongs to the Na-*  
17          *tional Hockey League, the National Football League, the*  
18          *National Basketball Association, Major League Baseball, or*  
19          *any minor league which is affiliated with one of the fore-*  
20          *going leagues.”.*

21   **SEC. 312. MAIL-ORDER BRIDE BUSINESS.**

22          (a) *CONGRESSIONAL FINDINGS.—The Congress makes*  
23          *the following findings:*

24                  (1) *There is a substantial “mail-order bride”*  
25          *business in the United States. With approximately*

1       200 companies in the United States, an estimated  
2       2,000 to 3,500 American men find wives through  
3       mail-order bride catalogs each year. However, there  
4       are no official statistics available on the number of  
5       mail-order brides entering the United States each  
6       year.

7               (2) The companies engaged in the mail-order  
8       bride business earn substantial profits from their  
9       businesses.

10              (3) Although many of these mail-order marriages  
11       work out, in many other cases, anecdotal evidence  
12       suggests that mail-order brides often find themselves  
13       in abusive relationships. There is also evidence to sug-  
14       gest that a substantial number of mail-order mar-  
15       riages constitute marriage fraud under United States  
16       law.

17              (4) Many mail-order brides come to the United  
18       States unaware or ignorant of United States immi-  
19       gration law. Mail-order brides who are battered  
20       spouses often think that if they flee an abusive mar-  
21       riage, they will be deported. Often the citizen spouse  
22       threatens to have them deported if they report the  
23       abuse.

24              (5) The Immigration and Naturalization Service  
25       estimates the rate of marriage fraud between foreign



1        *nationals and United States citizens or legal perma-*  
2        *nent residents as eight percent. It is unclear what*  
3        *percent of those marriage fraud cases originated as*  
4        *mail-order marriages.*

5        (b) *INFORMATION DISSEMINATION.*—*Each inter-*  
6        *national matchmaking organization doing business in the*  
7        *United States shall disseminate to recruits, upon recruit-*  
8        *ment, such immigration and naturalization information as*  
9        *the Immigration and Naturalization Service deems appro-*  
10       *priate, in the recruit's native language, including informa-*  
11       *tion regarding conditional permanent residence status, per-*  
12       *manent resident status, the battered spouse waiver of condi-*  
13       *tional permanent resident status requirement, marriage*  
14       *fraud penalties, immigrants' rights, the unregulated nature*  
15       *of the business, and the study mandated in subsection (c).*

16       (c) *STUDY.*—*The Attorney General, in consultation*  
17       *with the Commissioner of Immigration and Naturalization*  
18       *and the Violence Against Women Office of the Department*  
19       *of Justice, shall conduct a study to determine, among other*  
20       *things—*

- 21                (1) *the number of mail-order marriages;*  
22                (2) *the extent of marriage fraud arising as a re-*  
23        *sult of the services provided by international match-*  
24        *making organizations;*

1           (3) *the extent to which mail-order spouses utilize*  
2           *section 244(a)(3) of the Immigration and Nationality*  
3           *Act providing for waiver of deportation in the event*  
4           *of abuse, or section 204(a)(1)(A)(iii) of such Act pro-*  
5           *viding for self-petitioning for permanent resident sta-*  
6           *tus;*

7           (4) *the extent of domestic abuse in mail-order*  
8           *marriages; and*

9           (5) *the need for continued or expanded regula-*  
10          *tion and education to implement the objectives of the*  
11          *Violence Against Women Act of 1994 in this area.*

12          (d) *REPORT.—Not later than one year after the date*  
13          *of enactment of this Act, the Attorney General shall submit*  
14          *a report to the Congress setting forth the results of the study*  
15          *conducted under subsection (c).*

16          (e) *CIVIL PENALTY.—(1) The Attorney General shall*  
17          *impose a civil penalty of not to exceed \$20,000 for each*  
18          *violation of subsection (b).*

19          (2) *Any penalty under paragraph (1) may be imposed*  
20          *only after notice and opportunity for an agency hearing*  
21          *on the record in accordance with sections 554 through 557*  
22          *of title 5, United States Code.*

23          (f) *DEFINITIONS.—As used in this section:*

24                  (1) *INTERNATIONAL MATCHMAKING ORGANIZA-*  
25          *TION.—The term “international matchmaking organi-*

1        *zation” means a corporation, partnership, business,*  
 2        *or other legal entity, whether or not organized under*  
 3        *the laws of the United States or any State, that does*  
 4        *business in the United States and for profit offers to*  
 5        *United States citizens or permanent resident aliens,*  
 6        *dating, matrimonial, or social referral services to*  
 7        *nonresident, noncitizens, by—*

8                *(A) an exchange of names, telephone num-*  
 9                *bers, addresses, or statistics;*

10               *(B) selection of photographs; or*

11               *(C) a social environment provided by the*  
 12               *organization in a country other than the United*  
 13               *States.*

14        *(2) RECRUIT.—The term “recruit” means a non-*  
 15        *citizen, nonresident person, recruited by the inter-*  
 16        *national matchmaking organization for the purpose*  
 17        *of providing dating, matrimonial, or social referral*  
 18        *services to United States citizens or permanent resi-*  
 19        *dent aliens.*

20        **SEC. 313. APPROPRIATIONS FOR CRIMINAL ALIEN TRACK-**  
 21                **ING CENTER.**

22        *Section 130002(b) of the Violent Crime Control and*  
 23        *Law Enforcement Act of 1994 (8 U.S.C. 1252 note) is*  
 24        *amended—*

25               *(1) by inserting “and” after “1996;”, and*

1           (2) *by striking paragraph (2) and all that fol-*  
2           *lows through the end period and inserting the follow-*  
3           *ing:*

4           “(2) \$5,000,000 for each of fiscal years 1997  
5           *through 2001.”.*

6 **SEC. 314. BORDER PATROL MUSEUM**

7           (a) *AUTHORITY.*—Notwithstanding section 203 of the  
8           *Federal Property and Administrative Services Act of 1949*  
9           *(40 U.S.C. 484) or any other provision of law, the Attorney*  
10          *General is authorized to transfer and convey to the Border*  
11          *Patrol Museum and Memorial Library Foundation, incor-*  
12          *porated in the State of Texas, such equipment, artifacts,*  
13          *and memorabilia held by the Immigration and Naturaliza-*  
14          *tion Service, as the Attorney General may determine is nec-*  
15          *essary to further the purposes of the Museum and Founda-*  
16          *tion.*

17          (b) *TECHNICAL ASSISTANCE.*—The Attorney General  
18          *is authorized to provide technical assistance, through the*  
19          *detail of personnel of the Immigration and Naturalization*  
20          *Service, to the Border Patrol Museum and Memorial Li-*  
21          *brary Foundation for the purpose of demonstrating the use*  
22          *of the items transferred under subsection (a).*

23 **SEC. 315. PILOT PROGRAMS TO PERMIT BONDING.**

24          (a) *IN GENERAL.*—The Attorney General of the United  
25          *States shall establish a pilot program in 5 INS district of-*

1 fices (at least 2 of which are in States selected for a dem-  
2 onstration project under section 112 of this Act) to require  
3 aliens to post a bond in lieu of the affidavit requirements  
4 in section 203 of the Immigration Control and Financial  
5 Responsibility Act of 1996 and the deeming requirements  
6 in section 204 of such Act. Any pilot program established  
7 pursuant to this subsection shall require an alien to post  
8 a bond in an amount sufficient to cover the cost of benefits  
9 for the alien and the alien's dependents under the programs  
10 described in section 241(a)(5)(D) of the Immigration and  
11 Nationality Act (8 U.S.C. 1251(a)(5)(D)) and shall remain  
12 in effect until the alien and all members of the alien's fam-  
13 ily permanently depart from the United States, are natu-  
14 ralized, or die. Suit on any such bonds may be brought  
15 under the terms and conditions set forth in section 213 of  
16 the Immigration and Nationality Act.

17 (b) REGULATIONS.—Not later than 180 days after the  
18 date of the enactment of this Act, the Attorney General shall  
19 issue regulations for establishing the pilot programs, includ-  
20 ing—

21 (1) criteria and procedures for—

22 (A) certifying bonding companies for par-  
23 ticipation in the program, and

24 (B) debarment of any such company that  
25 fails to pay a bond, and

1           (2) *criteria for setting the amount of the bond to*  
2           *assure that the bond is in an amount that is not less*  
3           *than the cost of providing benefits under the programs*  
4           *described in section 241(a)(5)(D) for the alien and the*  
5           *alien's dependents for 6 months.*

6           (c) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
7           *authorized to be appropriated such sums as may be nec-*  
8           *essary to carry out this section.*

9           (d) *ANNUAL REPORTING REQUIREMENT.—The Attor-*  
10          *ney General shall report annually to Congress on the effec-*  
11          *tiveness of the pilot program, once within 9 months and*  
12          *again within 1 year and 9 months after the pilot program*  
13          *begins operating.*

14          (e) *SUNSET.—The pilot program shall sunset after 2*  
15          *years of operation.*

16   **SEC. 316. MINIMUM STATE INS PRESENCE.**

17          (a) *IN GENERAL.—Section 103 (8 U.S.C. 1103) is*  
18          *amended by adding at the end the following new subsection:*

19               “(e) *The Attorney General shall ensure that no State*  
20               *is allocated fewer than 10 full-time active duty agents of*  
21               *the Immigration and Naturalization Service to carry out*  
22               *the enforcement, examinations, and inspections functions of*  
23               *the Service for the purposes of effective enforcement of the*  
24               *Immigration and Nationality Act.”.*

1       (b) *EFFECTIVE DATE.*—The amendment made by sub-  
2       section (a) shall take effect 90 days after the date of enact-  
3       ment of this Act.

4       **SEC. 317. DISQUALIFICATION FROM ATTAINING NON-**  
5                       **IMMIGRANT OR PERMANENT RESIDENCE STA-**  
6                       **TUS.**

7       (a) *DISAPPROVAL OF PETITIONS.*—Section 204 of the  
8       Immigration and Nationality Act (8 U.S.C. 1154) is  
9       amended by adding at the end the following new subsection:  
10       “(i) *Restrictions on future entry of aliens apprehended*  
11       *for violating immigration laws.*

12               “(1) *The Attorney General may not approve any*  
13       *petition for lawful permanent residence status filed by*  
14       *an alien or any person on behalf of an alien (other*  
15       *than petitions filed by or on behalf of spouses of Unit-*  
16       *ed States citizens or of aliens lawfully admitted for*  
17       *permanent residence) who has at any time been ap-*  
18       *prehended in the United States for (A) entry without*  
19       *inspection, or (B) failing to depart from the United*  
20       *States within one year of the expiration of any non-*  
21       *immigrant visa, until the date that is ten years after*  
22       *the alien’s departure or removal from the United*  
23       *States.”.*

24       (b) *VIOLATION OF IMMIGRATION LAW AS GROUNDS*  
25       *FOR EXCLUSION.*—Section 212(a)(6) of the Immigration

1 *and Nationality Act (8 U.S.C. 1182(a)(6)) is amended by*  
2 *adding at the end the following new subparagraph:*

3                   “(G) *Any alien who (i) has at any time*  
4                   *been apprehended in the United States for entry*  
5                   *without inspection, or (ii) has failed to depart*  
6                   *from the United States within one year of the ex-*  
7                   *piration date of any nonimmigrant visa, unless*  
8                   *such alien has applied for and been granted asy-*  
9                   *lum or refugee status in the United States or has*  
10                  *a bona fide application for asylum pending, is*  
11                  *excludable until the date that is ten years after*  
12                  *the alien’s departure or removal from the United*  
13                  *States.”.*

14           (c) *DENIAL OF ADJUSTMENT OF STATUS.*—Section  
15 *245(c) of the Immigration and Nationality Act (8 U.S.C.*  
16 *1255(c)) is amended—*

17                   (1) *by striking “or (5)” and inserting “(5)”;* and

18                   (2) *by inserting before the period the following:*

19                   “*or (6) any alien who (A) has at any time been ap-*  
20                   *prehended in the United States for entry without in-*  
21                   *spection, or (B) has failed to depart from the United*  
22                   *States within one year of the expiration under section*  
23                   *208 date of any nonimmigrant visa, unless such alien*  
24                   *has applied for and been granted asylum or refugee*



1       *status in the United States or has a bona fide appli-*  
2       *cation for asylum pending”.*

3       (d) *EXCEPTIONS.—Section 245 (8 U.S.C. 1254) is*  
4       *amended by adding at the end the following new subsection:*

5       “(k) *The following periods of time shall be excluded*  
6       *from the determination of periods of unauthorized stay*  
7       *under subsection (c)(6)(B) and section 204(i):*

8               (1) *Any period of time in which an alien is*  
9       *under 18 years of age.*

10              (2) *Any period of time in which an alien has a*  
11       *bona fide application for asylum pending under sec-*  
12       *tion 208.*

13              (3) *Any period of time during which an alien is*  
14       *provided authorization to engage in employment in*  
15       *the United States (including such an authorization*  
16       *under section 244A(a)(1)(B)), or in which the alien*  
17       *is the spouse of such an alien.*

18              (4) *Any period of time during which the alien*  
19       *is a beneficiary of family unity protection pursuant*  
20       *to section 301 on the Immigration Act of 1990.*

21              (5) *Any period of time for which the alien dem-*  
22       *onstrates good cause for remaining in the United*  
23       *States without the authorization of the Attorney Gen-*  
24       *eral.*

1 **SEC. 318. PASSPORTS ISSUED FOR CHILDREN UNDER 16.**

2       (a) *IN GENERAL.*—Section 1 of title IX of the Act of  
3 June 15, 1917 (22 U.S.C. 213) is amended—

4               (1) by striking “Before” and insert “(a) *IN GEN-*  
5 *ERAL.—Before*”, and

6               (2) by adding at the end the following new sub-  
7 section:

8       “(b) *PASSPORTS ISSUED FOR CHILDREN UNDER 16.*—

9               “(1) *SIGNATURES REQUIRED.*—In the case of a  
10 child under the age of 16, the written application re-  
11 quired as a prerequisite to the issuance of a passport  
12 for such child shall be signed by—

13                       “(A) both parents of the child if the child  
14 lives with both parents;

15                       “(B) the parent of the child having primary  
16 custody of the child if the child does not live with  
17 both parents; or

18                       “(C) the surviving parent (or legal guard-  
19 ian) of the child, if 1 or both parents are de-  
20 ceased.

21               “(2) *WAIVER.*—The Secretary of State may  
22 waive the requirements of paragraph (1)(A) if the  
23 Secretary determines that circumstances do not per-  
24 mit obtaining the signatures of both parents.”.

1       (b) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to applications for passports filed on*  
3 *or after the date of enactment of this Act.*

4 **SEC. 319. EXCLUSION OF CERTAIN ALIENS FROM FAMILY**  
5 **UNITY PROGRAM.**

6       Section 301(e) of the Immigration Act of 1990 (8  
7 U.S.C. 1255a note) is amended to read as follows:

8       “(e) *EXCEPTION FOR CERTAIN ALIENS.*—*An alien is*  
9 *not eligible for a new grant or extension of benefits of this*  
10 *section if the Attorney General finds that the alien—*

11               “(1) *has been convicted of a felony or 3 or more*  
12 *misdemeanors in the United States,*

13               “(2) *is described in section 243(h)(2) of the Im-*  
14 *migration and Nationality Act, or*

15               “(3) *has committed an act of juvenile delin-*  
16 *quency which if committed by an adult would be clas-*  
17 *sified as—*

18                       “(A) *a felony crime of violence that has an*  
19 *element the use or attempted use of physical force*  
20 *against the person of another; or*

21                       “(B) *a felony offense that by its nature in-*  
22 *volves a substantial risk that physical force*  
23 *against the person of another may be used in the*  
24 *course of committing the offense.”.*

1 **SEC. 320. TO ENSURE APPROPRIATELY STRINGENT PEN-**  
2 **ALTIES FOR CONSPIRING WITH OR ASSISTING**  
3 **AN ALIEN TO COMMIT AN OFFENSE UNDER**  
4 **THE CONTROLLED SUBSTANCES IMPORT AND**  
5 **EXPORT ACT.**

6 (a) *Not later than 6 months following enactment of*  
7 *this Act, the United States Sentencing Commission shall*  
8 *conduct a review of the guidelines applicable to an offender*  
9 *who conspires with, or aids or abets, a person who is not*  
10 *a citizen or national of the United States in committing*  
11 *any offense under section 1010 of the Controlled Substance*  
12 *Import and Export Act (21 U.S.C. 960).*

13 (b) *Following such review, pursuant to section 994(p)*  
14 *of title 28, United States Code, the Commission shall pro-*  
15 *mulgate sentencing guidelines or amend existing sentencing*  
16 *guidelines to ensure an appropriately stringent sentence for*  
17 *such offenders.*

18 **SEC. 321. REVIEW AND REPORT ON H-2A NONIMMIGRANT**  
19 **WORKERS PROGRAM.**

20 (a) *SENSE OF THE CONGRESS.—It is the sense of the*  
21 *Congress that the enactment of this Act may impact the*  
22 *future availability of an adequate work force for the produc-*  
23 *ers of our Nation’s labor intensive agricultural commodities*  
24 *and livestock.*

25 (b) *REVIEW.—The Comptroller General shall review*  
26 *the effectiveness of the H-2A nonimmigrant worker pro-*

1 gram to ensure that the program provides a workable safety  
2 valve in the event of future shortages of domestic workers  
3 after the enactment of this Act. Among other things, the  
4 Comptroller General shall review the program to deter-  
5 mine—

6 (1) that the program ensures that an adequate  
7 supply of qualified United States workers is available  
8 at the time and place needed for employers seeking  
9 such workers after the date of enactment of this Act;

10 (2) that the program ensures that there is timely  
11 approval of applications for temporary foreign work-  
12 ers under the H-2A nonimmigrant worker program  
13 in the event of shortages of United States workers  
14 after the date of enactment of this Act;

15 (3) that the program ensures that implementa-  
16 tion of the H-2A nonimmigrant worker program is  
17 not displacing United States agricultural workers or  
18 diminishing the terms and conditions of employment  
19 of United States agricultural workers; and

20 (4) if and to what extent the H-2A non-  
21 immigrant worker program is contributing to the  
22 problem of illegal immigration.

23 (c) REPORT.—Not later than December 31, 1996, or  
24 three months after the date of enactment of this Act, which-  
25 ever is sooner, the Comptroller General shall submit a re-

1 port to Congress setting forth the findings of the review con-  
2 ducted under subsection (b).

3 (d) *DEFINITIONS.*—As used in this section—

4 (1) the term “Comptroller General” means the  
5 Comptroller General of the United States; and

6 (2) the term “H-2A nonimmigrant worker pro-  
7 gram” means the program for the admission of non-  
8 immigrant aliens described in section  
9 101(a)(15)(H)(ii)(a) of the Immigration and Nation-  
10 ality Act.

11 **SEC. 322. FINDINGS RELATED TO THE ROLE OF INTERIOR**  
12 **BORDER PATROL STATIONS.**

13 *The Congress makes the following findings:*

14 (1) *The Immigration and Naturalization Service*  
15 *has drafted a preliminary plan for the removal of 200*  
16 *Border Patrol agents from interior stations and the*  
17 *transfer of these agents to the Southwest border.*

18 (2) *The INS has stated that it intends to carry*  
19 *out this transfer without disrupting service and sup-*  
20 *port to the communities in which interior stations are*  
21 *located.*

22 (3) *Briefings conducted by INS personnel in*  
23 *communities with interior Border Patrol stations*  
24 *have revealed that Border Patrol agents at interior*  
25 *stations, particularly those located in Southwest bor-*

1        *der States, perform valuable law enforcement func-*  
2        *tions that cannot be performed by other INS person-*  
3        *nel.*

4            *(4) The transfer of 200 Border Patrol agents*  
5        *from interior stations to the Southwest border, which*  
6        *would not increase the total number of law enforce-*  
7        *ment personnel at INS, would cost the Federal Gov-*  
8        *ernment approximately \$12,000,000.*

9            *(5) The cost to the Federal Government of hiring*  
10       *new criminal investigators and other personnel for*  
11       *interior stations is likely to be greater than the cost*  
12       *of retaining Border Patrol agents at interior stations.*

13           *(6) The first recommendation of the report by the*  
14       *National Task Force on Immigration was to increase*  
15       *the number of Border Patrol agents at the interior*  
16       *stations.*

17           *(7) Therefore, it is the sense of the Congress*  
18       *that—*

19                *(A) the United States Border Patrol plays*  
20       *a key role in apprehending and deporting un-*  
21       *documented aliens throughout the United States;*

22                *(B) interior Border Patrol stations play a*  
23       *unique and critical role in the agency's enforce-*  
24       *ment mission and serve as an invaluable second*  
25       *line of defense in controlling illegal immigration*

1           *and its penetration to the interior of our coun-*  
2           *try;*

3           *(C) a permanent redeployment of Border*  
4           *Patrol agents from interior stations is not the*  
5           *most cost-effective way to meet enforcement needs*  
6           *along the Southwest border, and should only be*  
7           *done where new Border Patrol agents cannot*  
8           *practicably be assigned to meet enforcement*  
9           *needs along the Southwest border; and*

10           *(D) the INS should hire, train and assign*  
11           *new staff based on a strong Border Patrol pres-*  
12           *ence both on the Southwest border and in inte-*  
13           *rior stations that support border enforcement.*

14   **SEC. 323. ADMINISTRATIVE REVIEW OF ORDERS.**

15           *(a) Section 274A(e)(7) is amended by striking the*  
16           *phrase “, within 30 days,”.*

17           *(b) Section 274C(d)(4) is amended by striking the*  
18           *phrase “, within 30 days,”.*

19   **SEC. 324. SOCIAL SECURITY ACT.**

20           *Section 1173(d)(4)(B)) of the Social Security Act (42*  
21           *U.S.C. 1320b–7(d)(4)(B)) is amended by striking clause (i)*  
22           *and inserting the following new clause:*

23                   *“(i) the State shall transmit to the Im-*  
24                   *migration and Naturalization Service either*  
25                   *photostatic or other similar copies of such*



1           *documents, or information from such docu-*  
2           *ments, as specified by the Immigration and*  
3           *Naturalization Service, for official verifica-*  
4           *tion,”.*

5   **SEC. 325. HOUSING AND COMMUNITY DEVELOPMENT ACT**  
6           **OF 1980.**

7           *Section 214(d)(4)(B) of the Housing and Community*  
8           *Development Act of 1980 (42 U.S.C. 1436a(d)(4)(B)) is*  
9           *amended by striking clause (i) and inserting the following*  
10          *new clause:*

11                   *“(i) the Secretary shall transmit to the*  
12                   *Immigration and Naturalization Service ei-*  
13                   *ther photostatic or other similar copies of*  
14                   *such documents, or information from such*  
15                   *documents, as specified by the Immigration*  
16                   *and Naturalization Service, for official ver-*  
17                   *ification,”.*

18   **SEC. 326. HIGHER EDUCATION ACT OF 1965.**

19           *Section 484(g)(B) of the Higher Education Act of 1965*  
20           *(20 U.S.C. 1091(g)(4)(B)) is amended by striking clause*  
21           *(i) and inserting the following new clause:*

22                   *“(i) the institution shall transmit to*  
23                   *the Immigration and Naturalization Serv-*  
24                   *ice either photostatic or other similar copies*  
25                   *of such documents, or information from*

1                   such documents, as specified by the Immi-  
2                   gration and Naturalization Service, for offi-  
3                   cial verification,”.

4 **SEC. 327. LAND ACQUISITION AUTHORITY.**

5           Section 103 of the Immigration and Nationality Act  
6 (8 U.S.C. 1103) is amended by redesignating subsections  
7 (b), (c), and (d) as subsections (c), (d), and (e) accordingly,  
8 and inserting the following new subsection (b):

9           “(b)(1) The Attorney General may contract for or buy  
10 any interest in land, including temporary use rights, adja-  
11 cent to or in the vicinity of an international land border  
12 when the Attorney General deems the land essential to con-  
13 trol and guard the boundaries and borders of the United  
14 States against any violation of this Act.

15           “(2) The Attorney General may contract for or buy  
16 any interest in land identified pursuant to subsection (a)  
17 as soon as the lawful owner of that interest fixes a price  
18 for it and the Attorney General considers that price to be  
19 reasonable.

20           “(3) When the Attorney General and the lawful owner  
21 of an interest identified pursuant to subsection (a) are un-  
22 able to agree upon a reasonable price, the Attorney General  
23 may commence condemnation proceedings pursuant to sec-  
24 tion 257 of title 40, United States Code.

1       “(4) *The Attorney General may accept for the United*  
 2       *States a gift of any interest in land identified pursuant*  
 3       *to subsection (a).’’.*

4       **SEC. 328. SERVICES TO FAMILY MEMBERS OF INS OFFICERS**  
 5               ***KILLED IN THE LINE OF DUTY.***

6       SEC. 294. [8 U.S.C. 1364]—*TRANSPORTATION OF THE*  
 7       *REMAINS OF IMMIGRATION OFFICERS AND BORDER PA-*  
 8       *TROL AGENTS KILLED IN THE LINE OF DUTY.*

9       (a) *Nothwithstanding any other provision of law, the*  
 10       *Attorney General may expend appropriated funds to pay*  
 11       *for—*

12               (1) *the transportation of the remains of any Im-*  
 13       *migration Officer or Border Patrol agent killed in the*  
 14       *line of duty to a place of burial located in the United*  
 15       *States, the Commonwealth of Puerto Rico, or the ter-*  
 16       *ritories and possessions of the United States;*

17               (2) *the transportation of the decedent’s spouse*  
 18       *and minor children to and from the same site at rates*  
 19       *no greater than those established for official govern-*  
 20       *ment travel; and*

21               (3) *any other memorial service sanctioned by the*  
 22       *Department of Justice.*

23       (b) *The Department of Justice may prepay the costs*  
 24       *of any transportation authorized by this section.*

1 **SEC. 329. POWERS AND DUTIES OF THE ATTORNEY GEN-**  
2 **ERAL AND THE COMMISSIONER.**

3       *Section 103 of the Immigration and Nationality Act*  
4 *(8 U.S.C. 1103) is amended in subsection (a) by adding*  
5 *the following after the last sentence of that subsection:*  
6 *“The Attorney General, in support of persons in adminis-*  
7 *trative detention in non-Federal institutions, is authorized*  
8 *to make payments from funds appropriated for the admin-*  
9 *istration and enforcement of the laws relating to immigra-*  
10 *tion, naturalization, and alien registration for necessary*  
11 *clothing, medical care, necessary guard hire, and the hous-*  
12 *ing, care, and security of persons detained by the Service*  
13 *pursuant to Federal law under intergovernmental service*  
14 *agreements with State or local units of government. The At-*  
15 *torney General, in support of persons in administrative de-*  
16 *tention in non-Federal institutions, is further authorized*  
17 *to enter into cooperative agreements with any State, terri-*  
18 *tory, or political subdivision thereof, for the necessary con-*  
19 *struction, physical renovation, acquisition of equipment,*  
20 *supplies or materials required to establish acceptable condi-*  
21 *tions of confinement and detention services in any State*  
22 *or local jurisdiction which agrees to provide guaranteed bed*  
23 *space for persons detained by the Immigration and Natu-*  
24 *ralization Service.”.*

1        *Section 103 of the Immigration and Nationality Act*  
2   *(8 U.S.C. 1103) is amended in subsection (b) by adding*  
3   *the following:*

4   *“The Commissioner may enter into cooperative agreements*  
5   *with State and local law enforcement agencies for the pur-*  
6   *pose of assisting in the enforcement of the immigration laws*  
7   *of the United States.”.*

8   **SEC. 330. PRECLEARANCE AUTHORITY.**

9        *Section 103(a) of the Immigration and Nationality*  
10   *Act (8 U.S.C. 1103(a)) is amended by adding at the end*  
11   *the following:*

12   *“After consultation with the Secretary of State, the Attor-*  
13   *ney General may authorize officers of a foreign country to*  
14   *be stationed at preclearance facilities in the United States*  
15   *for the purpose of ensuring that persons traveling from or*  
16   *through the United States to that foreign country comply*  
17   *with that country’s immigration and related laws. Those*  
18   *officers may exercise such authority and perform such du-*  
19   *ties as United States immigration officers are authorized*  
20   *to exercise and perform in that foreign country under recip-*  
21   *rocal agreement, and they shall enjoy such reasonable privi-*  
22   *leges and immunities necessary for the performance of their*  
23   *duties as the government of their country extends to United*  
24   *States immigration officers.”.*

1 **SEC. 331. CONFIDENTIALITY PROVISION FOR CERTAIN**  
2 **ALIEN BATTERED SPOUSES AND CHILDREN.**

3 (a) *IN GENERAL.*—With respect to information pro-  
4 vided pursuant to section 150(b)(C) of this Act and except  
5 as provided in subsection (b), in no case may the Attorney  
6 General, or any other official or employee of the Depart-  
7 ment of Justice (including any bureau or agency of such  
8 department)—

9 (1) *make an adverse determination of admissi-*  
10 *bility or deportability of an alien under the Immigra-*  
11 *tion and Nationality Act using only information fur-*  
12 *nished solely by—*

13 (A) *a spouse or parent who has battered the*  
14 *alien or the alien's children or subjected the alien*  
15 *or the alien's children to extreme cruelty, or*

16 (B) *a member of the alien's spouse's or par-*  
17 *ent's family who has battered the alien or the*  
18 *alien's child or subjected the alien or alien's*  
19 *child to extreme cruelty,*

20 *unless the alien has been convicted of a crime or*  
21 *crimes listed in section 241(a)(2) of the Immigration*  
22 *and Nationality Act;*

23 (2) *make any publication whereby information*  
24 *furnished by any particular individual can be identi-*  
25 *fied;*

1           (3) *permit anyone other than the sworn officers*  
 2           *and employees of the Department, bureau or agency,*  
 3           *who needs to examine such information for legitimate*  
 4           *Department, bureau, or agency purposes, to examine*  
 5           *any publication of any individual who files for relief*  
 6           *as a person who has been battered or subjected to ex-*  
 7           *treme cruelty.*

8           (b) *EXCEPTIONS.—(1) The Attorney General may pro-*  
 9           *vide for the furnishing of information furnished under this*  
 10          *section in the same manner and circumstances as census*  
 11          *information may be disclosed by the Secretary of Commerce*  
 12          *under section 8 of title 13, United States Code.*

13          (2) *The Attorney General may provide for the furnish-*  
 14          *ing of information furnished under this section to law en-*  
 15          *forcement officials to be used solely for legitimate law en-*  
 16          *forcement purposes.*

17          **SEC. 332. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-**

18                               **RESISTANT SOCIAL SECURITY CARD RE-**  
 19                               **QUIRED.**

20          (a) *DEVELOPMENT.—*

21               (1) *IN GENERAL.—The Commissioner of Social*  
 22               *Security (hereafter in this section referred to as the*  
 23               *“Commissioner”)* *shall in accordance with the provi-*  
 24               *sions of this section develop a prototype of a counter-*

1     *feit-resistant social security card. Such prototype card*  
2     *shall—*

3             *(A) be made of a durable, tamper-resistant*  
4             *material such as plastic or polyester,*

5             *(B) employ technologies that provide secu-*  
6             *rity features, such as magnetic stripes,*  
7             *holograms, and integrated circuits, and*

8             *(C) be developed so as to provide individ-*  
9             *uals with reliable proof of citizenship or legal*  
10            *resident alien status.*

11            *(2) ASSISTANCE BY ATTORNEY GENERAL.—The*  
12            *Attorney General of the United States shall provide*  
13            *such information and assistance as the Commissioner*  
14            *deems necessary to achieve the purposes of this sec-*  
15            *tion.*

16            *(b) STUDY AND REPORT.—*

17             *(1) IN GENERAL.—The Commissioner shall con-*  
18             *duct a study and issue a report to Congress which ex-*  
19             *amines different methods of improving the social secu-*  
20             *rity card application process.*

21             *(2) ELEMENTS OF STUDY.—The study shall in-*  
22             *clude an evaluation of the cost and work load impli-*  
23             *cations of issuing a counterfeit-resistant social secu-*  
24             *rity card for all individuals over a 3, 5, and 10 year*  
25             *period. The study shall also evaluate the feasibility*



1        *and cost implications of imposing a user fee for re-*  
2        *placement cards and cards issued to individuals who*  
3        *apply for such a card prior to the scheduled 3, 5, and*  
4        *10 year phase-in options.*

5            (3) *DISTRIBUTION OF REPORT.*—*Copies of the re-*  
6        *port described in this subsection along with a fac-*  
7        *simile of the prototype card as described in subsection*  
8        *(a) shall be submitted to the Committees on Ways and*  
9        *Means and Judiciary of the House of Representatives*  
10       *and the Committees on Finance and Judiciary of the*  
11       *Senate within 1 year of the date of the enactment of*  
12       *this Act.*

13          (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
14       *authorized to be appropriated and are appropriated from*  
15       *the Federal Old-Age and Survivors Insurance Trust Fund*  
16       *such sums as may be necessary to carry out the purposes*  
17       *of this section.*

18       **SEC. 333. REPORT ON ALLEGATIONS OF HARASSMENT BY**  
19                                **CANADIAN CUSTOMS AGENTS.**

20          (a) *STUDY AND REVIEW.*—(1) *Not later than 30 days*  
21       *after the enactment of this Act, the Commissioner of the*  
22       *United States Customs Service shall initiate a study of alle-*  
23       *gations of harassment by Canadian Customs agents for the*  
24       *purpose of deterring cross-border commercial activity along*  
25       *the United States-New Brunswick border. Such study shall*

1 *include a review of the possible connection between any in-*  
2 *cidents of harassment with the discriminatory imposition*  
3 *of the New Brunswick Provincial Sales Tax (PST) tax on*  
4 *goods purchased in the United States by New Brunswick*  
5 *residents, and with any other activities taken by the Cana-*  
6 *dian provincial and Federal Governments to deter cross-*  
7 *border commercial activities.*

8       (2) *In conducting the study in subparagraph (1), the*  
9 *Commissioner shall consult with representatives of the State*  
10 *of Maine, local governments, local businesses, and any other*  
11 *knowledgeable persons that the Commissioner deems impor-*  
12 *tant to the completion of the study.*

13       (b) *REPORT.*—*Not later than 120 days after enactment*  
14 *of this Act, the Commissioner of the United States Customs*  
15 *Service shall submit to Congress a report of the study and*  
16 *review detailed in subsection (a). The report shall also in-*  
17 *clude recommendations for steps that the United States*  
18 *Government can take to help end harassment by Canadian*  
19 *Customs agents found to have occurred.*

20 **SEC. 334. SENSE OF CONGRESS ON THE DISCRIMINATORY**  
21 **APPLICATION OF THE NEW BRUNSWICK PRO-**  
22 **VINCIAL SALES TAX.**

23       (a) *FINDINGS.*—*The Congress finds that—*

24               (1) *in July 1993, Canadian Customs officers*  
25 *began collecting an 11 percent New Brunswick Pro-*

1        *vincial Sales Tax (PST) tax on goods purchased in*  
2        *the United States by New Brunswick residents, an ac-*  
3        *tion that has caused severe economic harm to United*  
4        *States businesses located in proximity to the border*  
5        *with New Brunswick;*

6            *(2) this impediment to cross-border trade com-*  
7        *pounds the damage already done from the Canadian*  
8        *government's imposition of a 7 percent tax on all*  
9        *goods bought by Canadians in the United States;*

10           *(3) collection of the New Brunswick Provincial*  
11        *Sales Tax on goods purchased outside of New Bruns-*  
12        *wick is collected only along the United States-Can-*  
13        *adian border—not along New Brunswick's borders*  
14        *with other Canadian provinces—thus being adminis-*  
15        *tered by Canadian authorities in a manner uniquely*  
16        *discriminatory to Canadians shopping in the United*  
17        *States;*

18           *(4) in February 1994, the United States Trade*  
19        *Representative (USTR) publicly stated an intention*  
20        *to seek redress from the discriminatory application of*  
21        *the PST under the dispute resolution process in chap-*  
22        *ter 20 of the North American Free Trade Agreement*  
23        *(NAFTA), but the United States Government has still*  
24        *not made such a claim under NAFTA procedures; and*

1           (5) *initially, the USTR argued that filing a*  
2           *PST claim was delayed only because the dispute*  
3           *mechanism under NAFTA had not yet been finalized,*  
4           *but more than a year after such mechanism has been*  
5           *put in place, the PST claim has still not been put*  
6           *forward by the USTR.*

7           (b) *SENSE OF CONGRESS.—It is the sense of Congress*  
8           *that—*

9           (1) *the Provincial Sales Tax levied by the Cana-*  
10          *dian Province of New Brunswick on Canadian citi-*  
11          *zens of that province who purchase goods in the Unit-*  
12          *ed States raises questions about the possible violation*  
13          *of the North American Free Trade Agreement in its*  
14          *discriminatory application to cross-border trade with*  
15          *the United States and damages good relations between*  
16          *the United States and Canada; and*

17          (2) *the United States Trade Representative*  
18          *should move forward without further delay in seeking*  
19          *redress under the dispute resolution process in chapter*  
20          *20 of the North American Free Trade Agreement for*  
21          *the discriminatory application of the New Brunswick*  
22          *Provincial Sales Tax on United States-Canada cross-*  
23          *border trade.*

1 **SEC. 335. FEMALE GENITAL MUTILATION.**

2 (a) *CONGRESSIONAL FINDINGS.*—*The Congress finds*  
3 *that—*

4 (1) *the practice of female genital mutilation is*  
5 *carried out by members of certain cultural and reli-*  
6 *gious groups within the United States;*

7 (2) *the practice of female genital mutilation*  
8 *often results in the occurrence of physical and psycho-*  
9 *logical health effects that harm the women involved;*

10 (3) *such mutilation infringes upon the guaran-*  
11 *tees of rights secured by Federal and State law, both*  
12 *statutory and constitutional;*

13 (4) *the unique circumstances surrounding the*  
14 *practice of female genital mutilation place it beyond*  
15 *the ability of any single State or local jurisdiction to*  
16 *control;*

17 (5) *the practice of female genital mutilation can*  
18 *be prohibited without abridging the exercise of any*  
19 *rights guaranteed under the First Amendment to the*  
20 *Constitution or under any other law; and*

21 (6) *Congress has the affirmative power under*  
22 *section 8 of article I, the necessary and proper clause,*  
23 *section 5 of the Fourteenth Amendment, as well as*  
24 *under the treaty clause of the Constitution to enact*  
25 *such legislation.*

26 (b) *CRIMINAL CONDUCT.*—

1           (1) *IN GENERAL.*—Chapter 7 of title 18, United  
2       *States Code*, is amended by adding at the end the fol-  
3       *lowing new section:*

4       **“§ 116. Female genital mutilation**

5           “(a) *Except as provided in subsection (b), whoever*  
6       *knowingly circumcises, excises, or infibulates the whole or*  
7       *any part of the labia majora or labia minora or clitoris*  
8       *of another person who has not attained the age of 18 years*  
9       *shall be fined under this title or imprisoned not more than*  
10      *5 years, or both.*

11          “(b) *A surgical operation is not a violation of this sec-*  
12      *tion if the operation is—*

13              “(1) *necessary to the health of the person on*  
14      *whom it is performed, and is performed by a person*  
15      *licensed in the place of its performance as a medical*  
16      *practitioner; or*

17              “(2) *performed on a person in labor or who has*  
18      *just given birth and is performed for medical pur-*  
19      *poses connected with that labor or birth by a person*  
20      *licensed in the place it is performed as a medical*  
21      *practitioner, midwife, or person in training to become*  
22      *such a practitioner or midwife.*

23          “(c) *In applying subsection (b)(1), no account shall*  
24      *be taken of the effect on the person on whom the operation*  
25      *is to be performed of any belief on the part of that or any*

1 *other person that the operation is required as a matter of*  
 2 *custom or ritual.*

3       “(d) *Whoever knowingly denies to any person medical*  
 4 *care or services or otherwise discriminates against any per-*  
 5 *son in the provision of medical care or services, because—*

6               “(1) *that person has undergone female circumci-*  
 7 *sion, excision, or infibulation; or*

8               “(2) *that person has requested that female cir-*  
 9 *cumcision, excision, or infibulation be performed on*  
 10 *any person;*

11 *shall be fined under this title or imprisoned not more than*  
 12 *one year, or both.”.*

13               (2) *CONFORMING AMENDMENT.—The table of sec-*  
 14 *tions at the beginning of chapter 7 of title 18, United*  
 15 *States Code, is amended by adding at the end the fol-*  
 16 *lowing new item:*

*“116. Female genital mutilation.”.*

17               (c) *EFFECTIVE DATE.—Subsection (b) shall take effect*  
 18 *on the date that is 180 days after the date of the enactment*  
 19 *of this Act.*

Attest:

*Secretary.*

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 2202**

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**AMENDMENT**



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